

1 STATE REGULATION OF PUBLIC UTILITIES

2 REVIEW COMMITTEE

3 SCREENING OF CANDIDATES

4

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8 THURSDAY, APRIL 20, 2006

9 10:30 A.M.

10 THE STATEHOUSE

11 THIRD FLOOR CONFERENCE ROOM

12 COLUMBIA, SOUTH CAROLINA

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1 COMMITTEE MEMBERS IN ATTENDANCE:

2 SENATOR THOMAS C. ALEXANDER (CHAIRMAN)

3 REPRESENTATIVE WILLIAM E. SANDIFER

4 ERIN B. CRAWFORD, ESQUIRE

5 NANCY V. COOMBS, CHIEF COUNSEL

6 JENNIFER L. PARRISH, COMMITTEE COUNSEL

7 DEBRA D. HAMMOND, COMMITTEE STAFF

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18 (INDEX AT REAR OF TRANSCRIPT)

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1 10:35 a.m.

2 CHAIRMAN ALEXANDER: Good morning. And we
3 appreciate your attendance. This is the Screening
4 Committee and the Public Service Commission candidates
5 that will be up for election this year. I'm Thomas
6 Alexander, Senator and Chair of this subcommittee.

7 Members of the subcommittee, to my left,
8 Representative Bill Sandifer; to my right, Ms. Erin
9 Crawford. Also, we may be joined by John Simmons,
10 another member of the Screening Committee. In
11 addition to the Review Committee members in
12 attendance, we have the staff, Jennifer Parrish,
13 Debbie Hammond and Nancy Coombs.

14 This is the public hearing for the
15 screening of candidates for the Public Service
16 Commission for Districts 2, 4, and 6. We have four
17 candidates today to be screened, two for District 2,
18 one each for Districts 4 and 6.

19 As a way of background, the Review
20 Committee was created by Act 175 of the year 2004, and
21 one of the duties of the Review Committee is to screen
22 candidates to determine whether they meet statutory
23 qualifications. I would remind members of the
24 Committee and the public that incumbents are
25 grandfathered from these specific requirements. The

1 requirements are as follows: A baccalaureate or more
2 advanced degree, and a background of substantial
3 duration and an expertise in at least one of the
4 following areas; energy, telecommunications, consumer
5 protection and advocacy, water and wastewater,
6 finance, economics, and statistics, or accounting,
7 engineering, or law.

8 The Review Committee is also required to
9 consider, (1) their ability, dedication, compassion,
10 common sense, and integrity of the candidates; and (2)
11 the race and gender of the candidates and other
12 demographic factors to assure non-discrimination to
13 the greatest extent possible of all segments of the
14 population of the State of South Carolina.

15 Since we received applications in mid
16 March, we've conducted the background investigations
17 of each candidate, including credit and law
18 enforcement checks. We gave a written examination to
19 assist us in determining the level of knowledge that
20 each candidate has with respect to substantive public
21 utility issues, ethical constraints, applicable to the
22 commission and the operations of the commission.

23 We also sent a survey to the commission
24 employees and persons appearing before the commission
25 seeking their opinions with respect to the incumbent

1 commissioners' knowledge of public utility issues,
2 their adherence to ethical constraints, their
3 treatment of persons appearing before them, their
4 affect on employee morale, and their understanding of
5 the goals and the missions of the agency.

6 We are here today to have further
7 questioning of the candidates and give them an
8 opportunity to make any statement with respect to
9 their qualifications and desire to serve as a
10 commissioner. Any Review Committee member in
11 attendance will also be given the opportunity to ask
12 questions of the candidates.

13 The subcommittee will present its report
14 on the candidates to the Full Committee for its review
15 and adoption. A meeting of the Full Committee is
16 tentatively scheduled for May 4th. We anticipate that
17 the Review Committee will issue a report to the
18 General Assembly on May 8th. Candidates may not seek
19 pledges until 48 hours after the Review Committee has
20 issued its official report, and candidates will be
21 notified of that time when the report is officially
22 issued.

23 Those are the opening comments as we begin
24 these proceedings today. And I want to thank each and
25 every one of the Review Committee, Screening Committee

1 members, and the staff that continues to do just an
2 outstanding job. And we will be reminded that we're
3 kind of starting down a new course and this is the
4 framework that we have adopted for this proceeding.

5 REP. SANDIFER: Mr. Chairman, thank you,
6 again, for your leadership on this. And before we get
7 started today, I would move that we go into Executive
8 Session, pursuant to Code Section 30-4-70(a)(1) for
9 the purposes of appointing a person to a public body.

10 CHAIRMAN ALEXANDER: Without objection,
11 we'll go into Executive Session momentarily. We'll
12 notify you all of that particular time.

13 (Executive Session)

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1 11:00 a.m.

2 CHAIRMAN ALEXANDER: Good morning.

3 MR. WRIGHT: Good morning.

4 CHAIRMAN ALEXANDER: It's good to have you
5 here. We appreciate you taking the time to come up
6 and be with us. We'll proceed with the screening
7 process and we'll ask the court reporter to swear you
8 in.

9 DAVID A. WRIGHT, having been duly
10 sworn, testified as follows:

11 CHAIRMAN ALEXANDER: Nancy is starting
12 things off for us.

13 MS. COOMBS: Mr. Chairman. Good morning,
14 Mr. Wright.

15 MR. WRIGHT: Good morning.

16 MS. COOMBS: For the record, I would like
17 to state that a credit and SLED check of Mr. Wright
18 revealed no negative information. And Mr. Wright has
19 brought his driver's license and voter registration
20 card today for proof of his residency in District
21 number 2. And I would like to just briefly summarize
22 the information that he provided on his personal data
23 questionnaire.

24 He lives in Columbia and he's married and
25 has four children. He received a Bachelor of Arts

1 degree from Clemson University in 1977, with a major
2 in Political Science and a minor in Communications.
3 He presently serves as a member of the Public Service
4 Commission, having been elected March 3rd, 2004.

5 He also is the sole proprietor of David
6 Wright Communications, a public relations and
7 advertising business. And, in the past, he has been a
8 member of the House of Representatives, he's been a
9 lobbyist for several organizations. He was the mayor
10 of the Town of Irmo and a member of the Irmo Town
11 Council.

12 After his election to the commission, he
13 attended a two-week program sponsored by the National
14 Association of Regulatory Utility Commissioners that's
15 held at the Institute of Public Utilities at Michigan
16 State University and has attended other public utility
17 seminars.

18 He is a member of the NARUC and several of
19 their committees; the Energy Resources and the
20 Environment Committee, The Washington Action
21 Committee, and the subcommittee on nuclear issues and
22 waste disposal. He is also a member of the
23 Southeastern Association of Regulatory Utility
24 Commissioners and is the second vice chairman.

25 Mr. Chairman, I would like to request that

1 Mr. Wright's personal data questionnaire be entered
2 into the record with any confidential information,
3 such as his social security number and any financial
4 statement being redacted.

5 CHAIRMAN ALEXANDER: So ordered.

6 MS. COOMBS: And before we begin
7 questioning, would you like to make a statement to the
8 members of the subcommittee?

9 MR. WRIGHT: Well, since you've given me
10 an opportunity, I'll do that. I've worked very hard
11 over the last couple of years. We've only been there
12 two years and a few months and we've implemented the
13 changes with Act 175. And there's been a lot of
14 learning going on with everybody, but it appears that
15 all of the different parts of this thing are coming
16 together and seem to be working about good as could be
17 expected right now. And we've still got a lot of
18 things that we're looking to do and are looking
19 forward to the opportunity to continue, if I get the
20 reappointment.

21 EXAMINATION

22 BY MS. COOMBS:

23 Q. Mr. Wright, I just have a few questions
24 about how the commission works.

25 A. Okay.

1 Q. Could you explain the decision-making
2 process at the commission, how you all reach a
3 decision once you've heard a case?

4 A. What we go through ourselves? Well, first
5 off, any pre-filed testimony and things like that that
6 come in that we get ahead of time, we will read and
7 try to get familiar with the docket that's coming up
8 before us.

9 Once we go into the hearing, we'll hear
10 the evidence as presented by all sides. And then
11 after we close the proceeding, we then meet in groups
12 of three, no more than three, because of F.O.I.
13 concerns and any other ex parte concerns or anything
14 like that.

15 Then we will discuss with staff, who are
16 assigned to the case, you know, what they think that
17 we should consider, and we'll ask questions about what
18 concerns we have. And then we will look at, and those
19 opportunities where maybe a settlement is even
20 reached, we have to consider the settlement that is
21 offered, as well. And then we will come together and
22 vote on it. We're very careful to not do anything
23 until we get together as a group.

24 Q. So when you get to the meeting that is
25 subject to the point where you do vote, how do you all

1 make a decision there? Are there discussions on
2 the --

3 A. Well, in the groups of three, typically
4 with staff, that's where we will ask a lot of our
5 questions, you know, try to get an idea of where, you
6 know, the group may head as a whole. And, you know,
7 usually, just because of some reason, my group may be
8 the first one meeting, so I don't usually get to hear
9 maybe what is talked about in the other group.
10 Because staff, the same staff people do talk to
11 everybody. So the staff person gets a consensus built
12 up in his head as to what, you know, questions that
13 have been asked or whatever.

14 But, you know, we will ask if there's a
15 recommended motion and then we'll consider it. And
16 then before we get in there, a commissioner has said
17 whether or not they will offer a motion or make a
18 motion.

19 Q. Could you describe an ordinary workday for
20 you at the commission?

21 A. An ordinary workday. Well, you know, when
22 you get in there, the first thing you would do is
23 check your email and make sure that you're up-to-date
24 on stuff. And, you know, when you first got there,
25 it's a lot different when you first got there than it

1 is today because of just the stuff you're involved in
2 and, you know, as you get more involved in things.
3 Because I'm involved in not just the day-to-day stuff
4 at the commission and the dockets that are before us,
5 but I have other interests, as well, with the Nuclear
6 Issues Committee or with the Yucca Mountain Task Force
7 or with SEARUC or whatever. So there's a lot of
8 different things that you may do.

9 But once you check your email and your
10 correspondence, I'll usually check in with Charlie
11 Terreni and find out if there's anything going on that
12 I need to be made aware of, you know. And a Monday is
13 different than a Wednesday, you know. Because,
14 usually, if we've got hearings that are happening at
15 10:30 or 2:00 or whatever, you want to be prepared for
16 those. And so those things can vary to, you know,
17 from 30 minutes to hours and, in some cases, over
18 days.

19 But, you know, once you've checked in with
20 your people and made sure that you've gotten your
21 marching orders, if you need them for the day, you
22 know, you go about doing what you have to do. If
23 there's correspondence you've got to send back, you
24 take care of that. If there's not, then there's
25 always reading. There's a lot of reading, you know, a

1 lot of reading.

2 Q. What kind of publications?

3 A. Well, besides testimony, you know, there's
4 the magazines that will come in, Transmission and
5 Distribution Magazines. And then there's your NRRI
6 stuff that comes out, a lot of policy things that may
7 come through there or through Michigan State, or even
8 through NARUC.

9 And then there's online, you know. You
10 may not get it in hard copy, but you go and you're
11 reading it online or you're checking out, you know,
12 things from different websites. I mean, there's more
13 reading than you can really accomplish so, you know,
14 you try to be smart about it, you know, and get a kick
15 start on some of the testimony, especially, that's
16 coming up in your dockets, you know, quicker.

17 Q. How long does it take to prepare for a
18 typical case? I know that there are different, with
19 your different industries, like electric or gas or --

20 A. Well, transportation doesn't take long,
21 okay? It really doesn't. Because, mainly, you don't
22 get anything really ahead on transportation. That's
23 usually, you walk in and they give you the stuff when
24 you walk in and sit down, so you're reviewing it as
25 the hearing is going on. And those aren't usually

1 very controversial.

2 Your water and sewer, it can be
3 voluminous, it can be a lot. And then if you've got
4 night hearings, you know, you've got to be ready for
5 the night hearings, so you try to have read prior to
6 the night hearings. And, as you know, the night
7 hearings can take place long before rebuttal or
8 sur-rebuttals have been filed, so you're reading what
9 you can up to the point, you know, of that and looking
10 over the applications. And so that when you're at
11 that night hearing or any public hearing, if there's a
12 question you want to ask, you know, you're at least
13 prepared to ask it, you know.

14 But, typically, at those things, you
15 really are just listening and asking for clarification
16 questions. But, yeah, I mean, sometimes it may be
17 weeks ahead to plan, you know. As the stuff comes
18 out, I try to read it as I get it, you know;
19 otherwise, it will stack up on you.

20 Q. What about electric? I know you've sat
21 through at least one electric rate case, right?

22 A. Oh, yeah. And that was a story in itself,
23 the first one, the SCE&G one. Because, as you know,
24 we had just gotten there. We went through the RIF,
25 the auditors had been transferred from our area over

1 to ORS, so we were basically going through our first
2 rate proceeding not having the expertise that we
3 thought we needed to get through it. But we were able
4 to get through it.

5 And, you know, that one, quite honestly, I
6 mean, the day you got stuff, you started reading it.
7 And then you have to meet, you know, we'll meet with
8 the staff people, in electric, Phil Riley, and ask
9 questions, you know, not just one time, but maybe,
10 sometimes, two or three times a day, sometimes it may
11 be three or four times a week. But we'll, you know,
12 email back and forth.

13 We'll try to understand what the major
14 points are in the case that we need to look at. And,
15 really, we have a great auditor over there. Tom, who
16 is still there, is very good and he gives us good
17 information so that we can understand, you know, just
18 what it is we're being asked to do and why it's
19 important.

20 Q. What about telecommunications?

21 A. Well, telecommunications is changing so
22 much. I mean, it may be different when we get out of
23 here. And, you know, the rewrite that looks like it's
24 coming at some point, we're not sure how that's going
25 to impact, you know. I mean, are they going to take a

1 lot of the authority that we have now away and just
2 keep us into the consumer part of things or not.

3 We don't know how it's going to address
4 universal service. I think a lot of those are still
5 questions that are out there, you know. And
6 telecommunications, a lot of that, unless it's in
7 arbitration right now, hearing officers are handling a
8 lot of the telecommunication cases, the hearings, and
9 then presenting resolutions to it at the commission
10 meetings.

11 Q. And I don't want to get into any kind of
12 pending cases or anything, but I know with the natural
13 gas, have you all had a rate case from one of those
14 --

15 A. Are you talking about purchase gas
16 adjustments?

17 Q. Well, the Stabilization Act where they can
18 elect the streamlined rate-making and --

19 A. Well, all of our people have elected to do
20 that.

21 Q. Okay. And one of them needed to have a
22 rate proceeding, right?

23 A. That was done with -- well, I believe,
24 they've all come in for -- I mean, you know, we've had
25 hearings. But as far as extended, you know, I want to

1 say it ended up being a settlement, if I remember
2 correctly.

3 Q. So is the preparation, when they settle a
4 case, is it after you all have received pre-filed
5 testimony?

6 A. You know, you bring up a good question
7 there, because it's been a -- part of the issue that
8 we had initially had to do with settlements and how
9 settlements were offered. And, you know, the company
10 will come in with pre-filed testimony and any other
11 intervenors will come with pre-filed testimony, any
12 ORS, too.

13 But when they came with the settlements,
14 they withdrew the pre-filed testimony. So all we had
15 to consider and all we could consider was the
16 settlement. And so when you have a settlement and you
17 don't know whether it's a good deal or not, because
18 you don't have the information you need to review in
19 order to know whether or not the settlement is a good
20 deal for the consumer or a good deal for industry.

21 So we had to, the way we got around that
22 issue initially was to send out interrogatories, to
23 ask questions, to ask for data that we needed in order
24 to evaluate the settlement. And then, you know, since
25 then -- and it's a learning process for industry, as

1 well, because nobody really had gone through that
2 procedure before.

3 So, now, we've established some settlement
4 procedures, that we've adopted a kind of a proforma,
5 so to speak, of how we'd like to see that handled.
6 And I think that everybody is kind of adopting it.
7 And so now, I think the settlements that will come in
8 the future, and even one that we've had recently, the
9 pre-filed testimony has stayed so that we have that to
10 consider. But that was a problem initially, you know,
11 and we had to figure a way around it, you know.

12 Q. I know that -- well, you know, also, that
13 it's a full-time job.

14 A. Yes, ma'am.

15 Q. But you all are required to reside in the
16 districts that you represent.

17 A. Right.

18 Q. So I believe everybody understands that
19 you're not going to be at the commission --

20 A. 24/7, yes, ma'am.

21 Q. Right. So I was wondering if you have
22 access to publications where you can be educating
23 yourself on the issues when you're not at the
24 commission offices. You said they get like
25 Transmission and --

1 A. What I have, I mean, me being in Columbia,
2 it's obviously different than somebody in Charleston
3 or even in Marlboro. But, you know, you have
4 briefcases, number one, so you can take home whatever
5 you need to take with you; testimony, magazines,
6 articles, whatever.

7 Email, you can access email from home. We
8 have a cellphone that we can make use of, you know.
9 And, obviously, even if I didn't have that, I've got
10 my own home phone I'd be more than willing to use and
11 do use for conference calls or things like that. So,
12 obviously, yeah, there's the opportunity to do that.
13 And we do take advantage of that, absolutely we do.

14 And then there's, obviously, you've got
15 seminars and educational forums that -- you know, I've
16 not been able to go to all of them by choice. A
17 couple of them, I decided it wasn't smart for
18 everybody to go, that I would wait until the next time
19 around and let two of them go now and two of us will
20 go later.

21 One is the Judicial College in Reno. I
22 opted to let, I think Lib and Neal went to that first
23 and I opted, I said, you know, I'm in a two-year term
24 and if I get reappointed, then I'll go, you know. But
25 I'm not going to go and spend that money right now,

1 not knowing if I'd be there for a four-year term or
2 not. So I was trying to be a little conservative and
3 wait.

4 Q. So do you then look for opportunities to
5 become educated on the issues that --

6 A. As often as I can, yes. I mean, because
7 everything is changing. I mean, it really is. And
8 all of us, you can't be an expert in everything and so
9 I don't try to be an expert in everything. But I try
10 to learn those things that I've kind of been appointed
11 to work on. And I chose the nuclear issues area to
12 start learning and focusing on.

13 I think all of us are trying to learn
14 water and sewer because we see that as being probably
15 the biggest issue before us now and before the whole
16 state, is water and sewer and how that's handled.
17 But, you know, everybody serves on a different
18 committee, and so we rely on them and their expertise
19 from that committee where possible. But when you go
20 to your national conventions and your SEARUCs and
21 things like that, we hop around, you know, to see what
22 the others are doing, too.

23 Q. So you rely on them, but you --

24 A. You've got to learn it, too.

25 Q. You need to know all of the issues and all

1 of the areas?

2 A. Yes.

3 Q. You've mentioned a little bit about your
4 contact with the commission staff. Can you maybe
5 expound on that and tell like what types of contact
6 you've had with them? Is it with mostly your advisory
7 staff or the technical staff or --

8 A. Well, obviously, you know, because of what
9 we do, a large part of your contact is with the
10 attorneys and then the technical people in charge of
11 that for that area. But, you know, we've got 35 or so
12 employees over there, you know, and you have to go
13 around and see them and see how they're doing and, you
14 know, make them feel good and stuff.

15 So you try to get to know them and try to
16 involve them wherever possible. You know, you have to
17 rely on your staff. And, I guess, I learned that from
18 being in business for myself from Hickory Farms years
19 ago. And even being in the House, you know, you've
20 got to rely on your staff. Because they are truly the
21 ones that need to know. Because you may not be there
22 forever but they may be, and you've got to rely on
23 them, you know. And you've to educate them. They've
24 got to have the opportunity to learn, too.

25 Q. And you're familiar with the advisory

1 opinion that the Review Committee issued on attendance
2 at legislative receptions?

3 A. I haven't gone to any in two years.

4 Q. Okay.

5 A. And not going to any this year, either.

6 Q. If you were approached by someone that
7 wanted to discuss an issue that is either in a pending
8 proceeding or may become an issue in a pending
9 proceeding, what would your response to that person
10 be?

11 A. Well, you're referring to a potential
12 ex parte or an allowable ex parte briefing. You know,
13 before I get into that part of it, I have had, and
14 it's been on the record, you know, inadvertent
15 ex parte contacts. One was from an attorney in a
16 Carolina water service proceeding, and he was writing
17 about something else but he referred to that hearing.
18 And I made that, you know, immediately went to Charlie
19 and to the attorneys. Our general counsel said, here,
20 we need to deal with this and, you know, contacted all
21 of the appropriate people by letter, gave them copies
22 of everything that was posted on the website and we
23 did everything we were supposed to do in that regard.

24 But if somebody came to me or even came to
25 the staff and wanted to talk to us about an issue,

1 one, if the commission decided they wanted to do it,
2 you know, because they don't really have to, you would
3 have to set up the proceeding as an allowable ex parte
4 briefing, which means you've got to involve everybody
5 who could possibly be involved in that issue, invite
6 them to an open forum, meeting, whatever you want to
7 call it, workshop.

8 Then you've got to notice it ahead of
9 time. I think it's twenty days that it has to be
10 noticed. You've got the F.O.I. provisions you've got
11 to deal with. And then you've got to post it on a
12 website for five days prior to, at least five days
13 prior to the hearing. And then after, any documents
14 or any testimony or anything that's referred to has
15 got to be made part of the record. You've got to give
16 everybody copies of it after it's over, you've got to
17 post it on the website. I mean, it's a pretty
18 extensive list of things you've got to do.

19 But it works, you know. And we've had a
20 number of them, you know. And ORS is involved, as
21 well. You've got to sign in. You can't get away with
22 going to it and nobody knowing you're not there, let's
23 put it that way.

24 Q. Are you familiar with the term retroactive
25 rate making?

1 A. Yes, ma'am, sort of, you know. I mean, I
2 know the principle of it.

3 Q. Well, I'm going to ask you, I guess, a
4 question to maybe kind of make it a litter clearer.
5 If the commission approved, for instance, if they
6 approved a rate increase for South Carolina Electric &
7 Gas Company and down the road, through an audit, it
8 was determined that South Carolina Electric & Gas was
9 earning more than the commission allowed it to earn by
10 way of profit, but they were charging the rates that
11 the commission approved, is your understanding that
12 the commission could reduce the rates for SCE&G?
13 First of all, could they reduce the rates?

14 A. Well, I know that if you give them a rate
15 of return or a range, you know, that doesn't guarantee
16 that they're going to make that. But that's something
17 that, you know, they're entitled to make. If they, by
18 efficiencies or whatever, are staying within that, you
19 know, and because of good business practices they
20 ended up making more money, I believe they're entitled
21 to that. But, you know, if they're getting more than
22 their rate of return, I believe that you have the
23 opportunity to come back in and change that.

24 Q. Okay. So you could reduce their rates; is
25 that what you're saying?

1 A. You would have to probably go into a
2 proceeding to do that, I would think.

3 Q. Could you make them refund any of the
4 monies they've over-earned?

5 A. I know that in the past that there have
6 been refunds given, both in electric and in
7 telecommunications issues.

8 Q. Do you know whether that was --

9 A. And I believe it was -- well, I believe,
10 one of them was rates, for sure, you know. I believe
11 it was rates. It was a refund, you know, I believe.

12 Q. Okay.

13 A. I'm not positive.

14 Q. Has the job been what you expected it to
15 be?

16 A. Well, yes and no. I mean, because when I
17 first filed for this, it was under the old law and was
18 looking forward to the opportunity to work the
19 constituent issues as part of it, you know, because I
20 came from that background. That's really, you know,
21 things that I'm pretty good at, working, trying to
22 solve problems and things like that.

23 Having thought that that was going to be,
24 and knowing it was taken away, but having thought that
25 that type of work was going to be taken away from me,

1 too, really didn't happen. Because this job is a lot
2 about putting deals together, too, you know.

3 Although we can't participate in the
4 settlement procedures, you know, it's still a lot of
5 talk among us individually and in groups of three and
6 stuff and with staff as to, you know, how do you put
7 the thing together, how do you make it work, you know,
8 what makes the most sense so that you're not hurting
9 the business so that their investors are still going
10 to be willing to give money to help them in one area,
11 and then how do you balance that against the need of
12 the consumer, you know. And if you have to go with a
13 rate increase, you know, where is the balance.

14 And so there is a lot of, you know,
15 there's a lot of think work there. And that part of
16 it, I really do kind of enjoy. And then there's the
17 learning of things that I really have never had the
18 opportunity to learn, you know, in my previous lives.
19 You know, like the nuclear stuff is -- this is a very,
20 very interesting, demanding, and rewarding position.
21 It hasn't been what I thought it was going to be, but
22 it's been more than I could have expected, you know,
23 if that answers it.

24 Q. How do you think you've done as a
25 commissioner?

1 A. Well, you know, we've only been there a
2 couple of years and the first thing that, you know, I
3 knew going in was, there was a steep learning curve
4 and that we had to get involved right away, and we had
5 to do some things that caused you to have to grow up
6 very quick. And, you know, I've done the best I know
7 how to do, trying to educate myself, trying to be part
8 of, an active part of the commission.

9 I step outside and do things that are, I
10 think, are going to enhance the reputation of our
11 commission, will help bring some credibility to, you
12 know, our staff and our commission and to our state.
13 And at the same time, you know, make sure that South
14 Carolina is at least represented, you know, at the
15 table, even though sometimes we're not allowed --
16 well, we've been told we're not allowed to vote or
17 speak on some things. But we do try to be a part and
18 I try to do my part. I think I've -- I really think
19 I've done a good job, you know, or have tried to.

20 Q. Do you have any ideas for improving your
21 service, or whether it needs improvement?

22 A. Well, first off, it's more of the same. I
23 mean, I know I've got to learn some more. I mean, the
24 first part of this has been a lot about learning the
25 procedure, you know. Now, you want to go, it's the

1 how and why and you're trying to put the rest of it
2 together. And in applications of the new laws, you
3 know, EPACT or whatever is coming up, we've got to
4 learn how that impacts us and get those things
5 moving.

6 So you're always trying to educate.
7 You've got to continue to learn, you know. And I
8 trust my other commissioners, too. And I'll ask
9 questions. That's one thing. It took a long time to
10 learn how to do that, but once you learn and you've
11 said, you know, you've got to ask a lot of questions,
12 you know. When I learned that many years ago, that's
13 been a big help for me.

14 Q. Do you have any suggestions as to how you
15 could have improvements with the commission as a
16 whole?

17 A. Well, you know, 175 is still growing.
18 We're still learning, and I think everybody is
19 learning. There's some tweaking that needs to
20 probably take place and I think everybody recognizes
21 some of that. You know, there's some things we've
22 talked about on the commission that, how can we make
23 things more efficient, you know. And we implemented,
24 you know, using our -- they call it an advisory
25 committee -- that we utilize the attorneys that

1 practice before us to give us some feedback on ways to
2 streamline the proceedings and how to make things
3 easier and helping us review the regs and all that.
4 We're going through that process.

5 So it's more of what we've been doing
6 right now to get us over that hump, which we're still,
7 I think we're getting there, you know. But improving,
8 you know, it's still a work in progress. We're not
9 where we're going to be, you know. But we are making
10 progress. I think they've done as good a job as they
11 could under the circumstances they've been given the
12 last couple of years, you know.

13 MS. COOMBS: Mr. Chairman, I don't have
14 anything further of Mr. Wright.

15 CHAIRMAN ALEXANDER: Thank you.
16 Questions?

17 REP. SANDIFER: Mr. Wright, let me ask you
18 a couple of questions, if I may, just some thoughts
19 that I had and jotted them, and they're in no
20 particular order, unlike Ms. Coombs.

21 MR. WRIGHT: Yes, sir.

22 REP. SANDIFER: First of all, I think you
23 realize that as we debated Act 175, one of our
24 concerns then and subsequently was the potential for
25 ex parte with legislators.

1 MR. WRIGHT: Yes, sir.

2 REP. SANDIFER: Has that presented a
3 problem? If not, tell us how it was addressed.

4 MR. WRIGHT: I think it was more of an
5 education process for the General Assembly to
6 understand that, you know, they could still have their
7 issues addressed, it was just with a different group,
8 you know. And I think as ORS has gotten themselves
9 more visible and got their people in place, you know,
10 you still get the call.

11 I mean, I still get calls about, you know,
12 by the way, I need to call you; I've got this guy
13 that's got this. And I say, wait a minute, stop.
14 Before you go any further, here's who you need to
15 call. And I'll tell them either, you give them Dukes's
16 number or you give them April Sharpe's number and tell
17 them where to call. And then that usually takes care
18 of it and you don't have to worry about it, you know.

19 REP. SANDIFER: Do you have someone, an
20 assistant or someone, who attempts to screen those
21 calls?

22 MR. WRIGHT: Yes, sir. They've put some
23 things in place now to where they try to go through
24 the secretary first and try to find out what it's
25 about. Because if there is the potential for, you

1 know -- and even on the website, too, you know,
2 they've changed it. They've got a separate email set
3 up so that, one that we don't check that the staff
4 will check, so if there's that inadvertent ex parte
5 thing going on, that they can stop it there before it
6 gets to us.

7 REP. SANDIFER: Okay. And then in your
8 earlier testimony, you talked about the rate case that
9 you all heard shortly after the change and you felt
10 somewhat inadequate because of staff, and I'm
11 paraphrasing. But do you think that you all still,
12 even though you felt some what ham-strung, do you
13 think you made the right decision in that case?

14 MR. WRIGHT: Absolutely. Absolutely. You
15 know, just call it Baptism by fire, you know. We did
16 not lose anything, okay? We were able to meet those
17 deadlines we were supposed to meet, we were able to
18 properly assess the testimony and to review
19 everything. We weren't rushed, you know. We knew
20 where we were going to be short, so you make the extra
21 effort to make sure that that part is done as well as
22 you can get it done.

23 So, no, sir. I think we came through that
24 fine. And believe it or not, we got a great review on
25 that. David Cuthers, you know, there's a newsletter

1 that he sends out about regulatory things around. We
2 were written up about how we handled that case,
3 believe it or not.

4 REP. SANDIFER: Actually, I only have one
5 other question. In the period that you've been
6 serving, and particularly under the current statute,
7 as you have had various rate cases come before you,
8 both water, sewer, electric, telecom, everything, on a
9 percentage, how many of those would you say in
10 percentages you've denied the increases, the
11 non-increases?

12 MR. WRIGHT: You know, I'm not sure
13 whether we've denied any, but I know they haven't
14 gotten what they've wanted, okay? And even where
15 there's been an offer by ORS as to what they
16 recommend, we've actually come in below that in most
17 every case. You know, looking at what you're given,
18 you know, how you're supposed to operate, and most of
19 the -- and I can only -- I know I've probably voted
20 against a couple myself. I know one particularly I
21 voted against. And that was under the old law, not
22 under the new law. So it was early, you know.

23 Most of the testimony and most of the
24 evidence that's been presented has been pretty
25 overwhelming, you know. But, you know, where our

1 staff and, especially, you rely on your auditors to
2 verify those things.

3 REP. SANDIFER: That's all I have, Mr.
4 Chairman.

5 CHAIRMAN ALEXANDER: Ms. Parrish.

6 MS. PARRISH: Mr. Chairman. Thank you,
7 Mr. Wright. I have a follow-up on Ms. Coombs' earlier
8 question about decision-making at PSC. Would you walk
9 me back through how you make your decision? Once
10 you've heard the testimony at the hearing, what
11 happens then? Would you walk me back through that one
12 more time, please?

13 MR. WRIGHT: Once we've stopped the
14 hearing?

15 MS. PARRISH: Once the hearing is
16 completed and you're received all of the testimony in
17 the hearing.

18 MR. WRIGHT: Well, we know we're under a
19 schedule to release a decision or to make a decision.
20 And, you know, there's not been many times when we've
21 run right up against that deadline, but there have
22 been times when we've run up against it.

23 But in a case where there's not a
24 settlement, after the hearing, you know, we don't talk
25 about it right away, you know. It may be a day or

1 two, it could be a week. But we will meet with the
2 staff person that's involved, possibly with an
3 attorney, as well, in groups of three and we'll talk
4 about it, you know, here's what we heard, these were
5 the points that were brought out, these are the
6 decisions we feel need to be made and, you know, do we
7 have questions. And, obviously, there's a lot of give
8 and take.

9 And then if a commissioner, you know --
10 usually, if it's in my area, for example, usually, if
11 it's a Second District company, usually, I'll be the
12 one that will be looked to to make a motion. And so
13 you work with staff on creating a motion that, in your
14 meetings, meets what you think. And then they may
15 review it, you know. But we'll get a motion and then
16 we go into the meeting and then, you know, you read
17 your motion.

18 MS. PARRISH: Okay. And how do you decide
19 your groups of three? And, I guess, I'm missing
20 something here --

21 MR. WRIGHT: It depends on who's there,
22 okay?

23 MS. PARRISH: Okay.

24 MR. WRIGHT: It just depends on who's
25 there. I mean, usually, you know, well, for example,

1 Bob Moseley lives in Columbia, I live in Columbia. So
2 if they want to have a Monday meeting, Bob and I'll
3 meet and, usually, Randy Mitchell will be there, you
4 know. If it happens to be a Tuesday or a Wednesday,
5 we may switch it around. It may be Ming and me and
6 Lib. I mean, it just depends on how they want it.
7 But it's not the same groups all the time, but you've
8 just got to keep it three or less.

9 MS. PARRISH: And then you make a
10 recommendation and then do you draft the order, does
11 staff draft the order?

12 MR. WRIGHT: Well, you know, we ask for
13 orders. Now, we've asked for orders to be submitted,
14 you know, and then staff will also put together the
15 final order, yes.

16 MS. PARRISH: Okay. Thank you. One other
17 follow-up on, you spoke about your opportunities on
18 general issues, substantive issues. I was wondering
19 also if you could tell me a little bit about issues on
20 ethics, APA. You all had opportunities to talk about
21 those things.

22 MR. WRIGHT: All of that. We've had
23 workshops on those and specific workshops on those,
24 from, I believe, the girl from State Ethics came over
25 and gave us one. We've had at least one, possibly two

1 on that, because we may have had an in-house one
2 given, as well.

3 We've had them on Act 175, we've had them
4 on the Code of Judicial Conduct, we've had them on --
5 well, just general regulations, you know. We're
6 trying to learn, you know, the things -- we want to
7 have gone through everything that the commission does
8 and if it's written, we want somebody on staff to go
9 through it with us. So we're trying to work those in
10 as we go.

11 MS. PARRISH: Okay. Thank you, Mr.
12 Wright.

13 CHAIRMAN ALEXANDER: Ms. Crawford.

14 MS. CRAWFORD: Have you found any
15 conflicts between serving as a member of the Public
16 Service Commission and serving as a proprietor of a
17 public relations and advertising -- I mean, has there
18 been any kind of --

19 MR. WRIGHT: No. And, you know, really
20 the truth be known, I put that in there because I
21 wanted to be truthful, okay? I mean, I don't do much
22 with it at all. But it's there in case -- you know, I
23 umpire baseball, too, you know. But, no, there's no
24 conflict at all, no.

25 I'm very, very careful and, you know,

1 don't do anything during the business hours and
2 anything that I might do, you know, that doesn't deal
3 with anything that would be controversial.

4 MS. CRAWFORD: Okay.

5 MR. WRIGHT: But I haven't done anything,
6 you know.

7 CHAIRMAN ALEXANDER: I guess, I had two or
8 three questions kind of following up on that. So you
9 just make sure that there's no conflict and you do
10 those in hours that are --

11 MR. WRIGHT: Yeah. I mean, at night or
12 weekends, you know. That's when I would have time to
13 do that, if I do it, you know.

14 CHAIRMAN ALEXANDER: How would you
15 describe your temperament?

16 MR. WRIGHT: I like to think I get along
17 with people pretty good. I have been told, from time
18 to time, I'm very patient, you know. And I guess that
19 comes from having small children and grandchildren.
20 But, you know, that I'm fair. That's what I've been
21 told.

22 I like to think that I am, you know. But,
23 I guess, I live inside that bubble, you know. I try
24 to be very cordial, compassionate to people. I try to
25 engage people when I can, you know. I try to be a

1 nice guy, you know. It's just who I am. It's nothing
2 I have to work at. But, hopefully, that's what I've
3 done.

4 CHAIRMAN ALEXANDER: After being there for
5 two years, what would you describe briefly as your
6 greatest strength that you have brought or bringing to
7 the commission?

8 MR. WRIGHT: I believe that I have a real
9 knack at being able to boil something down to the
10 group and to reason, and just to get them to focus on
11 the meat and potatoes of what we're talking about and
12 trying, you know, to -- you can have discussion, but,
13 sometimes, as you know in a legislative debate, it'll
14 get off on a tangent and you've got to bring them back
15 home, and I think I have the ability to do that.

16 And I pay attention to detail where that's
17 concerned. So the little things that may be said or
18 spoken wrong or, you know, you'd want to make -- call
19 it a scrivener's error or whatever you want to call
20 it. You know, those are the things that I catch for,
21 you know, the group and try to keep them focused.

22 CHAIRMAN ALEXANDER: Thank you. Are there
23 any other questions? If not, as we dismiss you, we do
24 appreciate your time this morning in coming before
25 us.

1 MR. WRIGHT: Thank you.

2 CHAIRMAN ALEXANDER: And I would, for your
3 information, let you know that the subcommittee is
4 planning on and will present its report on the
5 candidates to the Full Committee for its review and
6 adoption.

7 A meeting of the Full Committee is
8 tentatively scheduled for May 4th and we anticipate
9 that the Review Committee will issue a report to the
10 General Assembly on May 8th. And, of course, under
11 the law, candidates may not seek pledges until 48
12 hours after the Review Committee has issued its
13 official report, and you will be notified of the time
14 that the report is officially issued for your
15 information.

16 MR. WRIGHT: Okay. Great. Thank you,
17 very much.

18 CHAIRMAN ALEXANDER: Are there any other
19 comments you would like to make before you're
20 dismissed?

21 MR. WRIGHT: Can I ask a question about
22 the test that we did? Is this appropriate to do that,
23 or should I talk to you privately about that?

24 CHAIRMAN ALEXANDER: Do you want to
25 mention about their opportunities on that?

3 MS. COOMBS: No.

6 CHAIRMAN ALEXANDER: I think that will be
7 part of the overall report.

10 MR. WRIGHT: Okay. Thank you, very much.

12 CHAIRMAN ALEXANDER: Good morning, Mr.
13 Locke. We're glad to have you with us here today for
14 the screening and being a candidate for the Public
15 Service Commission, and I believe that's District
16 number 2.

18 CHAIRMAN ALEXANDER: We'd like to get you
19 sworn first by the court reporter and I'll ask her to
20 swear you in.

23 CHAIRMAN ALEXANDER: Okay. Would you like
24 to make your statement or any statement or --

1 CHAIRMAN ALEXANDER: Okay.

2 MR. LOCKE: And I brought this statement
3 in on Monday. Does everybody have a copy of this
4 or --

5 CHAIRMAN ALEXANDER: We do.

6 MR. LOCKE: Okay. My name is Sidney
7 Locke. I'm a candidate for District 2, Public Service
8 Commission. And I'm the only candidate who is not on
9 the commission now, so I feel like that I need to say
10 who I am, what I have done, what qualifies me for a
11 commission seat, and why I want to be on the
12 commission.

13 It is important for me to let the Review
14 Committee and, hopefully, the House members and Senate
15 members know what my unique qualifications are for the
16 Public Service Commission. According to Act 175 of
17 2004, it is preferred that commissioners have a
18 background of substantial duration and expertise in
19 the areas related to utilities. Those areas would be
20 energy, telecommunications, consumer protection, water
21 and wastewater, finance and economics, accounting,
22 engineering, and law. Now, the list of those things
23 are not in my report. They're in Act 175.

24 I have substantial experience and
25 expertise in four of these areas. And what I would

1 like to do is expand on my experience in these areas
2 and let you know my qualifications relative to
3 utilities.

4 The areas of my substantial duration
5 experience are energy, telecommunications, water and
6 wastewater, and engineering. I've worked as a chemist
7 and a science educator for more than 30 years, and was
8 involved in these four areas from a scientific
9 perspective. Details of the four areas are below so
10 that you can know my experience. Experience in these
11 areas will no doubt help a commissioner make good
12 decisions about utility rates.

13 The first area of expertise is energy, and
14 I have some examples in this area. When I worked at
15 Dupont as a chemist at the May Plant over in Lugoff,
16 South Carolina, we had our own coal-burning power
17 plant. And my involvement with that power plant was
18 to, of course, be in there for tours, but we also
19 sampled samples from the power plant. And as a member
20 of the management team at Dupont, we routinely had
21 reports about the operation of the power plant; the
22 efficiency, the cost per kilowatt hour, how many
23 kilowatts we produced, and so forth. We also tested
24 the air quality around the plant to monitor the effect
25 of a coal-burning power plant on the environment

1 around the Dupont plant.

2 As a science teacher of physics, I taught
3 the theory of electrical production by coal, by
4 nuclear fission, by wind, solar, geothermal, and
5 hydro. I routinely made basic generators and motors
6 to demonstrate to my students, and my students made
7 those, as well. I have a deep understanding of the
8 fundamentals of electricity. I taught the concept of
9 volts, coulombs, amps, watts, ohms and their function.
10 And not just the definition, but what a volt actually
11 is and how you make it.

12 As a chemistry teacher, I taught how to
13 measure thermal energy and coal and fossil fuels. We
14 had samples of bituminous coal, anthracite, lignite.
15 For demonstration purposes, we talked about the
16 quality of the coal, the thermal energy in the coal.
17 And when I heard the presentations from SCE&G, they
18 had much to say about the coal that they used to make
19 electricity. I have an understanding of thermal
20 units, of calories, joules, BTUs, therms, and this
21 gives me a good understanding about how fossil fuels
22 are used to make electrical energy.

23 The science of testing for thermal energy
24 is called calorimetry and for many years, we used
25 calorimetries to test the energy in fossil fuels.

1 Sulphur is an important environmental problem with
2 coal burning. And in my classes, for years, I've
3 burned sulfur, made sulfur dioxide, produced acid rain
4 and tested household products and environmental
5 products on that acid rain to see the impact.

6 One of the things that we tested was a
7 piece of marble off of a tombstone, and that is a big
8 problem, and not only in our country but other
9 countries that are related to coal-burning production
10 of electricity. I taught other factors relative to
11 coal-burning plants, such as the green house gas
12 problem and the mercury in coal problem.

13 Much of the electrical power that we use
14 in our state comes from nuclear power. As a teacher,
15 I routinely use Geiger counters to measure radioactive
16 materials and teach what radioactive materials were.
17 This not only gives me a good understanding of the
18 fission nuclear power plants that we use to make
19 electricity with, but it also gave you a good
20 understanding of the materials stored at Chem Nuclear,
21 which is involved with the Public Service Commission
22 in Barnwell, South Carolina. So those are some
23 examples of energy expertise.

24 In the telecommunications area,
25 communications are transmitted through landlines, like

1 copper or glass fibers, and through the air by
2 electromagnetic radiation, which is like radio waves
3 or frequency bands.

4 As a physics teacher, I've taught the
5 properties of electromagnetic radiation, such as the
6 frequencies, the wavelengths, the speed, the energy
7 and how these waves are used to transmit messages from
8 one place to another. I routinely taught how fiber
9 optics work and how fibers are made into glass for
10 transmission of information. I used glass fibers in
11 my class to show the mechanism of LASER transmission.

12 Satellites are used to transmit signals
13 from one place on earth to another. Cell towers do
14 the same thing. I routinely calculated the position,
15 speed, period of rotation of geosynchronous satellites
16 in my classes. It's a little bit of an overkill for a
17 Public Service commissioner, but it shows the depth of
18 understanding of telecommunications. And that's a big
19 deal. When you have a dish on your home, it's pointed
20 in one direction all the time and it's pointed at a
21 satellite that stays right there all the time. And it
22 is an important part of telecommunications.

23 In the realm of water and wastewater, when
24 I worked for Dupont, we had our own water systems and
25 we had our own wastewater systems. We treated our own

1 waste. I was involved in the chemical testing of the
2 water that we drank, the testing of the water, the
3 purification of the water, and also the testing of the
4 wastewater that we put back in the Wateree River.

5 I actually got to ride up and down the
6 Wateree River, testing samples above the spillway, at
7 the spillway, below the spillway, to test for the
8 environmental impact on the life, the plant life and
9 animal life, in the river, and the oxygen content.

10 As a teacher, I taught a course called
11 Chemistry in the Community where we actually did water
12 purifications, and we would take foul water, go
13 through the process, the chemical process of purifying
14 it and mechanical process of purifying it. We also
15 measured the impact of waste chemicals and treatment
16 chemicals on our environment.

17 The last area of expertise is engineering.
18 At Dupont, the chemist and engineers worked hand in
19 hand to solve problems related to very large
20 manufacturing facilities. Chemists were often called
21 on to advise about laboratory testing for engineering
22 design changes, and chemists were also asked to
23 identify unknown samples brought in from everybody,
24 really, but engineers, as well.

25 As a physics teacher for more than 25

1 years, I worked almost daily on physics problems
2 related to engineering situations. We did engineering
3 problems that were mechanical, related to sound,
4 thermal, optical, electrical, and nuclear, to name a
5 few.

6 Now, those are the four areas that I have
7 expertise in and a lot of experience in. Also, during
8 my career, I've visited many utility facilities.
9 Visiting facilities gives you visual knowledge as well
10 as information knowledge about the facilities, and I'd
11 like to mention some of the places that I have visited
12 because these are all related to the Public Service
13 Commission.

14 I've visited, in South Carolina, several
15 nuclear power plants, that's the fission-type with
16 uranium. I've also visited hydrogen fusion plants
17 where they take hydrogen and fuse it together to make
18 energy, and that was in Rochester, New York.

19 I've visited hydro electric plants,
20 coal-burning steam electric plants, hydro pump
21 stations at Jenkinsville, South Carolina. I've
22 visited nuclear breeder reactors at Savannah River,
23 and that's a rare treat. Not many people get to see a
24 breeder reactor, and we have five of them here in
25 South Carolina. We stood just a few feet from that

1 breeder reactor.

2 I've visited the nuclear reprocessing
3 facilities at Barnwell. As far as I know, that plant
4 was never used. It was built earlier and Jimmy Carter
5 cancelled the use of that plant. But that was to
6 relieve the problem of spent nuclear fuel, what do we
7 do with it. And this is a big problem right now.
8 It's mentioned in a report by SCE&G a few weeks ago at
9 the Public Service Commission.

10 I've also visited the Chem Nuclear
11 low-level facilities. I went to a presentation last
12 week by Chem Nuclear and I could visually see just the
13 things that he was talking about and it gave me a deep
14 understanding of that presentation. I've also visited
15 water purification plants.

16 Since applying for the commission seat, as
17 I mentioned, I have been attending the commission
18 hearings and the meetings that they've had that were
19 for the public. I can emphatically say that a
20 technical background is needed to properly comprehend
21 some of the technical testimony made in these
22 presentations. Some of the presentations are very
23 technical and require an understanding of the subject
24 matter from a scientific standpoint.

25 Now, I understand that commissioners have

1 technical advisors, but they're not on the bench when
2 they receive the testimony. It is my opinion that we
3 need technical people on the commission. And in this
4 review of the Public Service Commission, they state
5 firmly in there that more technical knowledge is
6 needed by the commissioners for understanding of
7 increasingly technical information presented to the
8 commission.

9 When I looked at the profile of the
10 commissioners, I see things on there about their
11 personal life, their awards they've received, their
12 civic activity, their education, social life, religion
13 and personal data. And I just wondered, you know, how
14 I would stand up there. So I listed some of my things
15 that I've done in my career.

16 These were mostly done in the past, but
17 I've been a member of the American Chemical Society,
18 the Camden Jaycees, a member of the Camden
19 Toastmasters, President of the Camden Toastmasters,
20 Lt. Governor of the Central Region of South Carolina
21 Toastmasters, Board of Directors of God's Storehouse,
22 which is a food and clothes closet, Board of Directors
23 of Lake Wateree Homeowners Association, Who's Who in
24 American Teachers, the Best Physics Program in South
25 Carolina according to the Search for Excellence

1 Program.

2 I'm a national board certified teacher
3 which certifies me to teach in any state, any high
4 school, secondary science subject. Apple Award
5 winner, Palmetto State Teachers Association member,
6 Certified High School Principal, and the U.S. Army.

7 Of course, you can see my education there.
8 A B.S. in Chemistry from the University of Georgia, A
9 Master's of Education from USC in Secondary Science,
10 and a six-year certificate, which is 30 hours beyond a
11 Master's degree. I attend Spring Valley Presbyterian
12 Church in Northeast Columbia.

13 I'd like to comment on my health, since
14 I'm a little bit older. There are some commission
15 members my age, but my health is excellent. I had a
16 physical in December and had excellent checks on all
17 of the things that were tested.

18 I read the review of the Public Service
19 Commission, as I've mentioned. And in there, I think
20 it was -- I got the strong impression that the state
21 of South Carolina -- and this was in 2003 -- wanted a
22 different profile for the commissioners that sit on
23 the commission seats. And then I read Act 175 and
24 this confirmed the commission of seat profile changes,
25 and that profile would involve education requirements,

1 require a difference in ability to make decisions with
2 more technical knowledge, and experience of
3 substantial duration in the areas that I mentioned at
4 the beginning of my presentation.

5 So I hope that I have made a presentation
6 that lets you realize that this new profile that's
7 defined since 2004, that I fit that profile and I hope
8 this Committee finds me qualified for the seat on the
9 commission.

10 CHAIRMAN ALEXANDER: Well, we appreciate
11 your opening comments. We have a few brief questions
12 for you. And we appreciate your presentation and we
13 appreciate the information you have provided and your
14 willingness to offer for this. So, Ms. Coombs, if you
15 would proceed with the questions.

16 MS. COOMBS: Thank you, Mr. Chairman. For
17 the record, I'd like to state that a credit and SLED
18 check revealed no negative results for Mr. Locke. And
19 this morning, Mr. Locke provided his driver's license
20 and voter registration card for proof of his residency
21 in District 2.

22 I think Mr. Locke has done a good job with
23 summarizing his educational experience and other
24 information, so I won't belabor that any. I would
25 like to request that Mr. Locke's personal data

1 questionnaire that he submitted with his application
2 be entered into the record with any confidential
3 information, such as his social security number and
4 financial statement being redacted.

5 CHAIRMAN ALEXANDER: So ordered.

6 EXAMINATION

7 BY MS. COOMBS:

8 Q. Mr. Locke, have you considered serving on
9 the Public Service Commission in the past?

10 A. I've been interested in it for many years.
11 And in 2004, I read a article in the State Newspaper
12 about the restructuring of the Public Service
13 Commission, the new criteria for the commissioners. I
14 was very interested in that. I realized at the time
15 that the things that I did in my career for 30 years
16 pretty much were related, from a scientific
17 standpoint, to the things the commission does.

18 So I called and asked for an application
19 for the Public Service Commission for the election in
20 2004. Unfortunately, when the article came out in the
21 paper, it was too late. It had already been done. So
22 I requested, at that time, an application for the next
23 opening of a commissioner's seat. So when this
24 election came up, the two for 2, 4 and 6 came up for
25 reelection on June the 30th of this year, they sent me

1 an application. So that's how I got this application.

2 I have been interested for many years.

3 Q. But you didn't really consider applying
4 until 2004?

5 A. That's correct. I really didn't know how
6 to. I didn't know how they were elected and I really
7 didn't know -- when I applied, I didn't know that the
8 House members and Senate members elect. So that was
9 sort of a surprise. I thought that they would be
10 elected by this Committee.

11 Q. And are you aware that it is a full-time
12 position?

13 A. I'm a retired person. I have plenty of
14 time and I think it is something I would love to do.
15 When I have attended these meetings, these hearings,
16 when those testimonies were given, my mind was running
17 at a hundred miles an hour because of the
18 in-between-the-line things that I realized. And I had
19 many questions for these people that were presenting.
20 I had no opportunity to ask them until after the
21 meetings, but I had many questions. And I did get to
22 talk to them after the meeting.

23 Q. What do you expect a typical day to be
24 like at the commission if you're elected?

25 A. If I'm elected? Well, I assume, I'd get

1 up, go out there and go to meetings. And I'd read
2 reports from the utilities that are making the
3 presentations that I'd study. I know very little
4 about what the commission does, what their mechanism
5 is. I had no access to that.

6 When I took the test, I had no access to
7 the protocol, the procedures, the manual of what they
8 do, so I didn't know the answers on those questions.
9 But I am very willing to learn the process of the
10 Public Service commissioner. And it may take all day,
11 it may take at night, but I have the time.

12 Q. Did you try to get that information?

13 A. I did try to get that information.

14 Q. And you were unsuccessful?

15 A. I asked the Public Service Commission. I
16 went out there and requested the information that I
17 would need to take that test that you first told me
18 about, and they gave me an accountability report for
19 last year which had very, very little information.

20 I called Camden, because they sell their
21 electricity to the citizens. I called the co-op
22 people, the South Carolina Central Co-ops. I called
23 SCE&G people to ask them the questions that I found on
24 that test that you gave me, that preview test, and had
25 a lot of difficulty.

1 I did go on the internet for the Public
2 Service Commission. I went on the internet for the
3 Office of Regulatory Services, the Federal
4 Communication Act, the State Telecommunication Act,
5 Clean Water Act. And I've read as much stuff as I
6 could, but I could not find the ins and operations of
7 the South Carolina Public Service Commission, what
8 they're responsible for, for example. And that's
9 basically what the test was about.

10 Q. So if you're elected to the commission,
11 how do you expect to, for lack of a better term, get
12 up to speed on, not only what the commission does, but
13 the substantive issues that come before it?

14 A. Well, I'll read the reports that are
15 submitted from the people seeking judgments from the
16 utility. You know, I'll read those. And if I'm
17 understanding your question right, do you mean, as far
18 as my expertise goes, what will I do to change the
19 commission or are you just asking about what will I do
20 to meet the needs of the commissioners?

21 Q. What will you do for yourself to
22 understand better the issues that come before the
23 commission?

24 A. If I can get access, internal access to
25 the operating procedures, what they're responsible

1 for, I would love to see them. And I've not been able
2 to get that information.

3 Q. So you said you've attended both the
4 hearings and the meetings where they vote on cases; is
5 that correct? You've attended the hearings?

6 A. I've attended the hearings and I've
7 attended one session where the attorney for the
8 commission just made presentations and they voted on
9 them. But the hearings were extremely fascinating to
10 me. I've heard the hearings from SCE&G, a rate
11 adjustment hearing for fuel adjustment rates, and I've
12 heard the Barnwell low-level nuclear waste, Chem
13 Nuclear, presentation.

14 And I heard one very strange presentation,
15 that was very legal, about whether somebody could
16 testify or not, that was a member of a law firm here
17 in South Carolina. That went on for about three hours
18 and it was very just legalese to me. And there was no
19 technical information other than legal information
20 presented.

21 Q. Have you read any of the commission
22 decisions?

23 A. That was one thing I thought about doing,
24 but if you go back and read the decisions for the last
25 two years, that would be close to 200 decisions. That

1 would be very difficult to go through and try to pick
2 out the stuff that they did in there. But, no, I have
3 not read any of the decisions, other than just hearing
4 the decisions that they made that one day where they
5 did about ten or fifteen decisions right there and
6 voted on it.

7 Q. So do you have any idea what issues you
8 would typically hear, for instance, in a major
9 electric rate case? You said you attended the fuel
10 --

11 A. I think I know what I would hear there.
12 They talked about their nuclear power plants. They
13 talked about the coal that they burn. They talked
14 about the sulfur in the coal, the sulfur dioxide
15 allowances and how much they have to pay for the
16 allowances when they overuse coal that has more than
17 one percent sulfur in it. And I heard the facilities'
18 presentation. And, yes, I know exactly what I will be
19 hearing from those because I've heard them.

20 What I don't know is, I don't know what
21 the commissioners had prior to the presentations. I
22 would love to see that. I would love to be able to be
23 on the other end. Because, obviously, the questions
24 that they had didn't come from the testimony. It came
25 from something they had previously seen. So I would

1 like to see those things, be privy to that, to have
2 access to that.

3 Q. And I guess my question is, if you sat in
4 a meeting and heard them vote on an issue, you heard a
5 case, but do you know with all of that testimony,
6 could you figure out what the commission was being
7 asked to decide, what issue? Like when they hear the
8 information with respect to the amount of sulfur in
9 coal or something like that, could you tell what was
10 being asked or being decided?

11 A. I could. Because here in this case, they
12 were asking for a specific rate increase, so many
13 pennies per kilowatt hour down to the nearest
14 thousandth of a cent. And all of those details had
15 been worked out by the Office of Regulatory Service
16 staff. And those numbers were just presented, they
17 didn't have to figure them out. And once they
18 decided, you know, this was the amount that they
19 needed to operate, then, you know, they had an
20 agreement on that. So I think if this was a fair
21 amount, I think that would be -- I could make a
22 judgment on that or one-seventh of a judgment, anyway,
23 you know.

24 But I had a lot of questions in the
25 testimony in my head that I did not hear come from the

1 commissioner. Particularly about sulfur dioxide.
2 From the numbers that they gave -- they did not tell
3 us this. But from the information they gave, they
4 said they use a hundred million tons of coal a year
5 that's one percent sulfur. That's one million tons of
6 sulfur that they put up smoke stacks in South
7 Carolina. That makes two million tons of sulfur
8 dioxide and three million tons of sulfuric acid.

9 You only have one scrubber in the state of
10 South Carolina. So the rest of that stuff is going up
11 in our environment, in our state. Most of it's going
12 to be washed out to sea because the weather moves from
13 west to east, but it's still going somewhere. That
14 bothered me a lot. I didn't get to ask that question.

15 Q. And I have a few questions that were asked
16 in some manner earlier. Can you tell me why we
17 regulate those utilities in South Carolina? Utilities
18 that are under the jurisdiction of the Public Service
19 Commission, why are they regulated?

20 A. Well, to keep the consumer from being
21 abused. Some investor-owned utilities are the ones
22 that are regulated, and I think investors might be
23 greedy and the operators of the utilities might be
24 greedy, so I think somebody has to help control that
25 cost. And it involves everybody, because everybody

1 uses electricity and water and telephones and things
2 like that. So it's important that we don't have our
3 citizens abused.

4 Q. And what is your understanding of the
5 concept of universal service in the telecommunications
6 area?

7 A. Well, that's real interesting, because
8 I've searched and searched and searched for a good
9 definition of universal service. I just happened to
10 see yesterday on my phone bill, there is a line item
11 charge for universal service, and the question was
12 about the fund. And I read a article on the internet
13 prior to taking that test that the fund was in
14 trouble. I really didn't understand how they meant
15 the fund was in trouble. I guess the fund expense
16 just being too great.

17 But we need public communications for
18 education, for hospitals, for health, for safety, for
19 911, and those areas are universal services that
20 everyone needs. The poor people may need services
21 that they can't afford and maybe the public needs to
22 provide those, you know, versus telecommunication
23 services. So that's what I understand about it. But
24 I still don't feel like I've had a good definition of
25 universal service.

1 Q. I know when we spoke, I mentioned you
2 could get information off the website with respect to
3 the code of laws. You might want to look there for a
4 definition of universal service.

5 A. Are you talking about the Legislative
6 Audit Counsel or Act 175 or --

7 Q. No. Well, I guess my point was that
8 universal service is a defined term and --

9 A. I didn't Google it up to maybe get their
10 definition of it, if that's what you're asking me.

11 Q. It probably depends on what state you live
12 in. And another kind of technical question, have you
13 heard the term retroactive rate-making with respect to
14 public utility regulation?

15 A. Retroactive rate-making?

16 Q. Have you ever heard that term?

17 A. Well, I didn't hear that term, but when
18 SCE&G asked for a rate increase, it was retroactive.
19 They get to go once a year before the Public Service
20 Commission for fuel adjustment charges. And I
21 remember at one time on my utility bill, I had an
22 automatic fuel adjustment charge on there. It changed
23 every month. But it's not on there anymore, so I
24 assume they've done away with that.

25 But, no, I don't know what a retroactive

1 rate change is, unless it's just what I've asked
2 about, if the fuel cost changes, like they're changing
3 right now. Maybe they need a rate adjustment.

4 Q. Okay. Well, maybe if I explain the
5 concept. If SCE&G, for instance, came to the
6 commission for a rate increase and the commission
7 approved it, SCE&G started charging the approved
8 rates, but later, they were found to be earning more
9 than the commission allowed, although they were
10 charging their approved rates, do you know whether the
11 commission could, first of all, reduce their rates?

12 A. I think that has happened. I've had my
13 bill reduced and, I assume, the Public Service
14 Commission did that. So I assume that has happened
15 before.

16 Q. Could they order the company to refund
17 monies that they earned over their allowed return --

18 A. If it is an investor-owned company, I
19 believe they could.

20 Q. Okay. What are some of the major issues
21 you see on the horizon for the commission?

22 A. Major issues?

23 Q. Right.

24 A. Well, certainly, cost related to fossil
25 fuels. I don't think it's going to get better. I

1 think it's going to get more expensive for everybody.
2 I think it's going to affect us all. It's going to
3 affect our economy, the state. And I think that it's
4 going to be more expensive for utilities to provide
5 their services and it's going to take some very
6 balancing techniques to make sure that the services
7 are safely provided and good service for a fair
8 charge.

9 And in this report, they talk about the
10 technical changes and the increased complexity of
11 utilities, and I think that's happening. And I think
12 on the commission seats, and I've looked at
13 commissions for other states, and they have a lot of
14 attorneys. That's one thing I absolutely saw in my
15 hearing visits, is the need for attorneys. And there
16 is an attorney that sits on the bench with the
17 commissioners. I believe it's Mr. Butler. And he's
18 used often.

19 But I think the commissioners -- we need
20 some lawyers on the commission seats and I think we
21 need technical people that can understand these
22 testimonies that are increasingly more complex.

23 Q. And you received a copy of the advisory
24 opinion that the Review Committee issued with respect
25 to attendance at legislative receptions by

1 candidates?

2 A. Yes, I did.

3 Q. Have you attended any legislative
4 receptions?

5 A. No. I'm not in that crowd. Nobody's
6 asked me anywhere. I don't go out much. And I'm
7 really not interested, either.

8 Q. And I have one last question for you.
9 Assume that you're serving on the commission and
10 someone approached you that wanted to discuss an issue
11 that was either an issue in a pending matter or that
12 may become an issue in a future case before the
13 commission, how would you respond?

14 A. You say someone?

15 Q. Right.

16 A. Now, do you mean someone in the general
17 public or someone from a public investor-owned utility
18 or just on the street, or what? Anybody?

19 Q. Anybody.

20 A. Okay. There are very specific things in
21 here about who you can talk to as a commission member,
22 and I looked at that chart and I understand it. And I
23 would not carry on a conversation other than be
24 polite. To talk about issues that might come up
25 before the Public Service Commission, I understand

1 that very well, ex parte communications. I did read
2 that.

3 Q. Thank you.

4 CHAIRMAN ALEXANDER: Yes, sir,
5 Representative Sandifer.

6 REP. SANDIFER: Mr. Locke, thank you, very
7 much, for being here. Let me ask you just a very few
8 questions, more as a follow-up on what Ms. Coombs has
9 asked you about.

10 One of the things you've talked about was
11 a lack of access to information regarding the
12 activities of the commission. Have you read through
13 any other parts of Title 58 of the South Carolina
14 Code?

15 MR. LOCKE: No, sir.

16 REP. SANDIFER: Okay. I think you'll find
17 that Title 58 spells out a great deal of this. Title
18 58 of the South Carolina Code.

19 MR. LOCKE: Title 58 of the South Carolina
20 Code?

21 REP. SANDIFER: Yes. That's the laws of
22 South Carolina.

23 MR. LOCKE: Okay.

24 REP. SANDIFER: And one of the things that
25 you stated in your earlier testimony was that in one

1 of the hearings that you sat in on, there was a great
2 deal of what you called legalese?

3 MR. LOCKE: Yes, sir.

4 REP. SANDIFER: Do you feel that a
5 commissioner, whether they be a lawyer or not -- and I
6 will tell you, I'm not -- but do you think it's
7 incumbent upon a commissioner to be able to understand
8 and decipher that legalese?

9 MR. LOCKE: Well, let me tell you what
10 happened at this meeting.

11 REP. SANDIFER: No. I really just need a
12 very simple answer.

13 MR. LOCKE: Okay. And state it again?

14 REP. SANDIFER: Do you feel like a
15 commissioner needs to be able to understand and
16 decipher what you have called legalese?

17 MR. LOCKE: I think it would help. I
18 don't think it's absolutely necessary because they do
19 have legal advisors sitting on the bench right there
20 with them.

21 REP. SANDIFER: Okay. As you are seeking
22 election and, certainly, you've commented that you
23 were unaware until the process started that the
24 legislature elects the members of the Public Service
25 Commission.

1 MR. LOCKE: Right.

2 REP. SANDIFER: And so you will be coming
3 in contact with legislators as you seek to obtain
4 votes for this position. Do you see any problem, and
5 following up on what Ms. Coombs has said, with a
6 potential for ex parte communications in those
7 meetings?

8 MR. LOCKE: Well, the meetings that I will
9 have with Senators and House of Representatives
10 members will be relative to my credentials, not the
11 issues before the Public Service Commission. But it
12 will be my qualifications.

13 REP. SANDIFER: If a legislator, for
14 example, says, how would you vote on a rate increase
15 for X, Y, Z utility, how would you respond to such a
16 request?

17 MR. LOCKE: I don't have the information
18 for that, sir. I don't have that knowledge.

19 REP. SANDIFER: Okay. You talked a little
20 bit about the sulphur that's being produced by coal,
21 and I understand the physics of it. Does the Public
22 Service Commission serve as the environmental watchdog
23 for South Carolina?

24 MR. LOCKE: They're not, but they are
25 responsible for the rate and service, which would

1 include safety of the people receiving that service.
2 From that standpoint, I think it should be a factor.
3 And it certainly is an economic factor, as well as a
4 safety factor.

5 REP. SANDIFER: Okay. And then you've
6 talked about your experience and you have vast
7 experience and a great deal of technical knowledge.
8 Do you know what other entities may be regulated by
9 the Public Service Commission other than the ones that
10 you have mentioned?

11 MR. LOCKE: Well, a lot of
12 telecommunications, about 70 water utilities, three
13 natural gas, and four electrical utilities. So other
14 than those categories, I don't know of any others.

15 REP. SANDIFER: And they are substantial,
16 I will tell you. And you'll find that in Title 58.
17 You were asked a couple of questions about the
18 universal service fund.

19 MR. LOCKE: Right.

20 REP. SANDIFER: And I think that you've
21 indicated that maybe you don't have a great knowledge
22 of what that term really is dealing with. In the
23 terminology of the USF, there is what is called basic
24 service that it would provide. And we're talking
25 about telecom, now.

1 MR. LOCKE: Yes, sir.

2 REP. SANDIFER: What is your viewpoint of
3 what basic service consists of?

4 MR. LOCKE: Well, certainly, safety
5 communications. When your television goes out and
6 they do a national test for emergency signal, that,
7 911. I'm not sure about providing electricity for
8 everybody that needs it.

9 REP. SANDIFER: This is not electrical.
10 This is all telecom.

11 MR. LOCKE: Well, certainly, for
12 educational purposes, safety purposes, school
13 purposes, hospital services, I think that they're
14 needed and required and we should have them.

15 REP. SANDIFER: Okay. And my last
16 question, I promise, do you have any knowledge of what
17 we've referred to as the FOIA laws, FOIA being the
18 Freedom of Information Act, do you have any knowledge
19 of how that law applies to the commission?

20 MR. LOCKE: I do not.

21 REP. SANDIFER: Okay. Thank you. Thank
22 you, Mr. Chairman.

23 CHAIRMAN ALEXANDER: Any other questions?
24 I just have two for you. You would come in contact,
25 if a commissioner, with the staff and heard people

1 appearing before the commission, how would you
2 describe your temperament, briefly, for me?

3 MR. LOCKE: Well, I'm a mild-mannered
4 person, I don't like controversy. I know that you
5 have to compromise. Being a successful teacher is an
6 extreme challenge in today's world. And to survive
7 that, you have to walk a lot of chalk lines and do a
8 lot of things right to survive, and I did.

9 CHAIRMAN ALEXANDER: Okay. If elected,
10 what would you see as your greatest strength that you
11 would bring to the commission?

12 MR. LOCKER: My greatest strength is an
13 understanding of what the utilities are doing, what
14 their technology is, how they're making that
15 electricity, how they're purifying that water, what
16 impact it has on the environment, how the
17 telecommunications work. That will be my great asset
18 for the Public Service Commission. And I think that
19 this review says that we need that, and I think we
20 need that. After being at the committee meetings and
21 hearing the responses, I think we need that.

22 CHAIRMAN ALEXANDER: Okay. Thank you.
23 Are there any other questions before I dismiss Mr.
24 Locke? And before you go, let me mention that the
25 subcommittee plans to and will present its report on

1 the candidates to the Full Committee, and that's the
2 Review Committee, the Full Review Committee, for its
3 review and adoption. And a meeting of the Full
4 Committee is tentatively scheduled for May 4th. Of
5 course, that's subject to change, it is tentative.
6 And we anticipate that the Review Committee will issue
7 a report to the General Assembly on or about May 8th.

8 And candidates may not seek pledges until
9 48 hours after the Review Committee has issued its
10 official report. And you, as a candidate, will be
11 notified of the time that the report is officially
12 issued. Does that make sense to you as part of the
13 process, they'll be in contact with you?

14 MR. LOCKE: Yes, sir.

15 CHAIRMAN ALEXANDER: I just wanted to, as
16 a point of information, provide you that. And we
17 appreciate your willingness to serve and your time
18 here today to come before the Screening Committee.

19 MR. LOCKE: May I ask a question?

20 CHAIRMAN ALEXANDER: Yes, sir.

21 MR. LOCKE: When you make that report to
22 the General Assembly from this Committee, the Full
23 Committee report, what impact does that have on an
24 individual House member or Senate member? Do they
25 read that or does it affect their judgment, or how do

1 they determine which commissioner to vote for?

2 CHAIRMAN ALEXANDER: I can't speak for how
3 they interpret it on an individual basis. I don't
4 know. We provide it to them for their review and for
5 them to have it in their making their decisions about
6 the commissioners. Is there any other information you
7 want to provide on that issue?

8 REP. SANDIFER: Mr. Chairman, I totally
9 agree. Some members read them very carefully, others
10 scan them. But it's to a member's own individual
11 preference as to how they handle that.

12 MR. LOCKE: My concern is that I'm going
13 to have to unseat someone if I'm elected to the
14 commission. It's not like the other two, District 4
15 and District 6. So it's going to be imperative that
16 there be some reason to vote for me and not Mr.
17 Wright. And I think that some of this testimony would
18 be, you know, some justification and I just wondered
19 what impact this Committee has, how effective is this
20 Committee.

21 CHAIRMAN ALEXANDER: Our job is to screen
22 the candidates and making sure that they conform to
23 Act 175, the law. And that's the responsibility that
24 we have and that is what we're reporting to members of
25 the General Assembly, to make sure that the candidates

1 conform to that. So that's our job.

2 MR. LOCKE: Okay.

3 CHAIRMAN ALEXANDER: Thank you. But I'm
4 sure someone will be back in contact with you.

5 MR. LOCKE: And, thank you, folks.

6 CHAIRMAN ALEXANDER: Thank you.

7 12:34 p.m.

8 CHAIRMAN ALEXANDER: Good afternoon.

9 MS. FLEMING: Good afternoon.

10 CHAIRMAN ALEXANDER: We have Ms. Elizabeth
11 Burnett Fleming, a candidate for District 4 of the
12 South Carolina Public Service Commission. You will be
13 sworn in for your testimony by the court reporter.

14 MS. FLEMING: Oh, okay.

15 ELIZABETH B. FLEMING, having been
16 duly sworn, testified as follows:

17 CHAIRMAN ALEXANDER: Okay. Is there any
18 opening comment you would like to make before we start
19 the questioning by Ms. Parrish?

20 MS. FLEMING: Well, I just wanted to say
21 what a distinct honor it's been for me to serve on the
22 Public Service Commission these last two years. And
23 it's really been quite a journey with the
24 restructuring and reform with Act 175. And I think
25 we've come through that amazingly well. We've formed

1 a very strong, cohesive team and really work well
2 together.

3 CHAIRMAN ALEXANDER: Okay. Thank you.
4 Ms. Parrish.

5 MS. PARRISH: Thank you, Mr. Chairman.

6 EXAMINATION

7 BY MS. PARRISH:

8 Q. I'd like to indicate for the record that
9 your driver's license indicates you live at 314
10 Gwendalyn Place, Spartanburg, South Carolina, 29302.
11 That's correct?

12 A. That's correct.

13 Q. I'd also like to indicate for the record
14 that your voter registration certificate indicates
15 you're currently a registered elector of Spartanburg
16 County; is that correct?

17 A. Correct.

18 Q. You presently serve on the Public Service
19 Commission representing the Fourth District; is that
20 correct?

21 A. Yes.

22 Q. Could you briefly describe your
23 educational background?

24 A. I'm a graduate of Converse College, with a
25 B.S. degree, B.S. or B.A., I believe it is, in 1965.

1 Q. Thank you.

2 A. That was a long time ago. It's so
3 educational.

4 Q. Since you were elected to the PSC, could
5 you briefly describe any training, certifications or
6 activities related to your service as a commissioner?

7 A. Yes. We've had quite a bit of training.
8 And I want to thank the Senator and other elected
9 officials who have made that possible because it's so
10 important for us to have that, especially with this
11 complex, dynamic utility industry and all of the
12 changes that are going on on the federal and state
13 level, and market developments and regulation
14 developments.

15 The first session that I went to was Camp
16 NARUC and it is nicknamed Boot Camp. And now, I
17 understand, because it is a grueling process from
18 eight in the morning till sometimes nine or ten at
19 night. But what an incredible experience. That was a
20 two-week process. The four new commissioners went.

21 And in addition to all of the information
22 that was swimming around in my head, it was a great
23 time for us to really get to know each other, to learn
24 this information together so we could talk about it
25 and reinforce it with each other, and just to build a

1 lot of camaraderie among us. Are you wanting meetings
2 or just education?

3 Q. I think you've briefly described it. I'll
4 ask more questions on that in a little --

5 A. Well, I meant, I did go to NARUC like two
6 days after we were elected. I think we flew up on
7 Saturday and the election was on Wednesday. That was
8 my first introduction and I was like just kind of in a
9 daze at that point, so I was very appreciative of the
10 chance to go to Camp NARUC. I met a lot of great
11 people from around the country, as well.

12 Then in the fall, two of us went to the
13 National Judicial College in Reno, Nevada, and that
14 was also a two-week process for Administrative Law
15 judges. That was very helpful for a rate case that we
16 had coming down the pike, the SCE&G rate case that
17 came up the first of November. So we spent two weeks
18 there.

19 I've also been to rate-making school in
20 San Diego. Goodness. I have a list in my evaluation
21 for the year. I went to rate-making school, though,
22 for a week in San Diego, which was very helpful. It's
23 a very complex thing that I couldn't -- that I really
24 want to build on what I learned last year because
25 there's so much -- it's a very complicated thing and I

1 really need to study that even further. And that's
2 something, one of my goals for next year is to build
3 on that foundation I received there.

4 I've been to several NARUC meetings and,
5 of course, those are always educational in the
6 information that's presented. And I'm now serving on
7 the Electricity Committee and have an opportunity to
8 co-chair the task force for the PUHCA repeal and give
9 remarks back to FERC about some of the issues that
10 they were asking us about.

11 So I think I jump into these things
12 because it's good incentive for me to really dig in
13 and try to learn, and it also makes me aware of how
14 much more I need to learn in the process.

15 And I've been back to Judicial school a
16 second time because they have a session just for
17 regulators. And, in fact, six of us went to that
18 particular school and we found -- I think all of us
19 would say that that was probably one of the most
20 beneficial sessions for us for what we needed at that
21 time, because it was very specific to how we deal as
22 judges with utility matters, per se.

23 Q. I believe you're currently married and
24 have four children. As I understand it, none of them
25 are involved in any of the utilities that are

1 regulated by the PSC; is that correct?

2 A. No, they are not.

3 Q. We've reviewed your SLED report and found
4 no criminal convictions that were of any concern.
5 We've also reviewed your credit report. Any concerns
6 that we have had have been resolved through additional
7 documentation.

8 MS. PARRISH: Mr. Chairman, I would ask at
9 this time to enter Ms. Fleming's personal data
10 questionnaire summary into the record.

11 CHAIRMAN ALEXANDER: So ordered without
12 objection.

13 BY MS. PARRISH:

14 Q. Just a couple of general questions for you
15 about the commission. What types of cases do you
16 generally hear at the commission?

17 A. Well, we hear a variety of cases. I just
18 mentioned the rate cases are kind of the big cases
19 that we tackle. And it's for electricity, gas, water
20 and sewage, are primarily the rate cases that we hear
21 in that regard. We hear some telecommunication cases,
22 mostly as arbitrators in interconnection agreements
23 for that. Now that we're making use of our hearing
24 officers, they hear cases as far as procedural issues,
25 that type of thing, and then make recommendations to

1 us that we rule on.

2 We do certification of taxis and just had
3 a big case come up about whether taxi cab drivers each
4 have to be insured separately, or if a group under a
5 company can be insured as the group. And that was
6 kind of a big case. Although, apparently, it had been
7 taking place for a number of years. But, now, we've
8 made a decision on that particular case.

9 And, as I said, we have a lot of water
10 hearings. That's a major issue, water and sewage, in
11 this state. Our investment in the electric utilities
12 and our gas companies are all in such good economic
13 health, but the water and sewage companies are really
14 struggling out there. So that's an issue that I
15 really have been trying to get more information. And
16 the rate school was very helpful in that regard on
17 ways that we can be helpful in what other states are
18 doing in regard to these small companies.

19 And we've also had a generic hearing on
20 that issue just a few weeks ago, and I think we're
21 having another one in May concerning water. But we
22 run the gamut from carriers for household goods,
23 hazardous waste disposal, we just had a settlement in
24 that regard with Chem Nuclear, and electric and gas
25 cases and the telecommunications and taxi cabs.

1 Q. Tell me a little bit about how you prepare
2 for these types of cases.

3 A. Okay. Well, we get the pre-filed
4 testimony, and that is basically really going through
5 all of that very thoroughly, thinking of issues and
6 questions that we would like to ask that we all have
7 an interest in knowing more about. Coming up with
8 that, making sure we're asking them in a way that's
9 appropriate. Now that we're under the Judicial Code,
10 that's been another major learning experience. And,
11 by the way, we've had our ethics training, as well, on
12 a couple of occasions for schooling.

13 But learning, none of us are attorneys,
14 none of the commissioners are. And so we're really
15 having to learn the proper way to ask questions.
16 That's why judicial school has been so helpful in that
17 regard. So just reviewing the testimony, going
18 through that and thinking about questions that need to
19 be further developed from the information we've
20 received.

21 Q. If you have additional questions, how do
22 you go about finding additional information? Once you
23 receive the pre-filed testimony, if you have
24 questions, who would you talk to? Where would you
25 look to find additional information?

1 A. Well, we have advisors and they are
2 invaluable to us. So that's basically where we go.
3 Plus, just relying on the information that you've
4 learned in the various schools that we've attended.
5 But our advisors just do an incredible job. We only
6 have four of them, I think. But they are always there
7 for us. Any time we have questions, they always have
8 been there for me. And then our legal staff, also, is
9 very helpful. Any questions that I have, I go to
10 them, as well.

11 Q. Walk me through the decision-making
12 process. Once you've heard the testimony in the
13 hearing and the hearing has ended, walk me through a
14 little bit of how you make your decision on the
15 pending case.

16 A. Well, I like to take notes during the
17 hearing. And what I like to do is to go back after --
18 not immediately, but after a while, and go through my
19 notes and look at the testimony again and to come to
20 what I think -- what I feel is a good solution to the
21 case that we're listening to.

22 Now, these are our major cases, you know.
23 There are other cases that you walk out and you pretty
24 well know what -- the order is pretty obvious because
25 of the case. But go back and study that information

1 again, looking at the notes, what people said, and
2 going back to the testimony. And sometimes, going
3 back and looking at the information in our docket
4 management system, all of the information that's come
5 in. And then I'll have -- and if I have more
6 questions, I'll go back to the advisors and attorneys.

7 Then maybe a couple of us will get
8 together and kind of bounce ideas back and forth. And
9 so we kind of talk among ourselves, two, no more than
10 three -- we don't do that; that's a no-no -- and meet
11 with the advisors and kind of decide what we can all
12 think is a good thing to do.

13 Q. What it sounds like you've described is a
14 typical day at the commission when you would have a
15 hearing.

16 A. Yes.

17 Q. Tell me a little bit about your typical
18 day in Spartanburg. Specifically, what's your contact
19 like with the Columbia office? Do you have a good bit
20 of contact with your staff in Columbia? Do you have
21 other contact, via email? Tell me a little bit about
22 what your day is like when you're in Spartanburg.

23 A. Well, my life line is that cellphone
24 that's just on vibrator right now. But, anyway, so I
25 have that with me all the time. I'm always -- well, I

1 try to have it with me all the time. We also have
2 portable computers, which is just a great way -- we
3 get such an enormous amount of email that we need to
4 deal with, and so having the computer and the
5 telephone keeps me in close touch with the Columbia
6 office when I'm not there.

7 And believe it or not, I mean, we even get
8 calls occasionally if there's a big news breaking,
9 just to alert us that something may be coming out in
10 the paper, that people are just alerting us. It's a
11 very -- you know, because of this Judicial Code, we're
12 just all being so careful about walking on -- making
13 sure that we don't have any communication that is not
14 acceptable.

15 And, also, I was going to say that that's
16 the time when I do a lot of my studying. There's
17 really -- it's hard to really sit down and concentrate
18 on things at the office because there's a lot of
19 activity going on, a lot of back and forth. So when
20 I'm at home, that's the time when I focus on studying.

21 Q. I believe, just a second ago, you were
22 alluding to the Code of Judicial Conduct and ex parte
23 communications.

24 A. Yes.

25 Q. Can you tell me a little bit about what

1 you perceive ex parte communications to mean as it
2 affects your job as a commissioner?

3 A. Well, it's conversation with parties who
4 may, who are going to be appearing before us or may be
5 appearing before us, conversation about something that
6 could come before us or is coming before us that's not
7 in the acceptable format for having that conversation.

8 Q. How would you handle a question that was
9 an unacceptable question? If someone approached you
10 with what you believed to be an ex parte
11 communication, how would you handle that?

12 A. I'd just say, I can't discuss that. And
13 I've had the opportunity to do that. Especially at
14 night hearings, you know. Especially people in the
15 audience who are not familiar with what we're dealing
16 with. So I just tell them I can't discuss that.

17 I must say, I have never had a problem
18 with any of the utility industry personnel. That's
19 never been an issue with them. It's just people who
20 are not familiar with the code that we're working
21 under now.

22 Q. Are you familiar with the advisory opinion
23 that the Review Committee provided to you relating to
24 receptions and your attendance at the receptions?

25 A. Yes, I am.

1 Q. Have you attended any receptions?

2 A. This year?

3 Q. This year.

4 A. The only thing that I've done this year is
5 go to the Women's Caucus luncheon.

6 Q. Okay. Just a few more questions. Are you
7 familiar with the principle of retroactive
8 rate-making?

9 A. (Pauses.)

10 Q. Maybe not.

11 A. Well, that's one --

12 Q. If the commission determined that an
13 electric utility was earning more than their allowable
14 rate of return, could the commission reduce their
15 rates?

16 A. We have not had that come before us. But
17 as I understand, that can be done.

18 Q. Can the commission refund any dollars over
19 their allowed amount of rate of return?

20 A. To the customer?

21 Q. Yes.

22 A. Yes. As I understand, that can be done.
23 It may be done in a deduction on the bill.

24 Q. A couple more general questions. Has the
25 job been what you thought it would be?

1 A. It's been more than I thought it would be.
2 I really enjoy it. I went from being dazed and
3 confused at that first NARUC meeting to, today,
4 feeling like I'm just ready to really begin, you know.
5 I know when I went on City Council, it took me about a
6 year before I really understood how you decide on
7 issues and the way City government works.

8 But just in the past two or three months,
9 I've just really started feeling comfortable with the
10 knowledge that I have and that I'm really getting a
11 good grasp of it. And I like it because the issues
12 are very complex and you kind of have to peel them
13 back and deal with it that way. It's not just a
14 simple in and out. And that's nice that we have those
15 that aren't as complicated at times.

16 I really like the fact that we're
17 involved. I love the fact that we're getting all of
18 this training. That's very stimulating and it makes
19 you feel much more confident that you're making
20 decisions in the right way and in the best interest of
21 the public.

22 And I like the involvement on the national
23 level. There are only about 250 commissioners
24 throughout the country and it's -- and especially, I
25 think, being under the Judicial Code, you know, it's

1 just so nice to be able to see these people and, you
2 know, just chat about what's going on and learn what's
3 going on and what's happening in different states, how
4 they're addressing the issues that are coming before
5 us.

6 But I've also learned in that process how
7 important it is for South Carolina to be there and
8 having our voices heard, too. Because each state has
9 a very different perspective on certain issues. And
10 restructuring and electricity being, I guess, one of
11 the major ones that stands out to people.

12 But it's so important because we are
13 vertically integrated and very happy that we're at the
14 place where we are right now, to be able, especially
15 with some of the federal policies going on, to be able
16 to take a strong stand with other states and be able
17 to feel comfortable that South Carolina is doing
18 things the right way.

19 Q. Thank you, Ms. Fleming.

20 MS. PARRISH: No further questions.

21 CHAIRMAN ALEXANDER: Ms. Coombs.

22 MS. COOMBS: Two years ago, did you even
23 know what vertical integration was?

24 MS. FLEMING: Well, yeah, I did know that.

25 MS. COOMBS: Okay.

1 MS. FLEMING: I did know what that meant.
2 I didn't know it as intimately as I know it now.

3 MS. COOMBS: I was just curious.

4 MS. FLEMING: It was a much more
5 superficial knowledge, let me assure you.

6 MS. COOMBS: You threw the term out and
7 it just was something that, you know, a lot of people
8 weren't aware of. I don't even know if it was a term,
9 you know, thrown about much before eight or ten years
10 ago with electric restructuring.

11 MS. FLEMING: And, probably the ordinary
12 citizen wouldn't. And I wouldn't have known, except I
13 decided to apply for this position, and that's how I
14 found out.

15 MS. COOMBS: And I was curious. You
16 mentioned the enormous amount of emails. What kinds
17 of emails are you all getting?

18 MS. FLEMING: We get a lot of newsletters.
19 I would say that's the majority of it. All of the
20 different utilities have newsletters. Not the
21 companies, per se, but utilities are represented in
22 newsletters, the electric utilities.

23 And what's so interesting, they're
24 newsletters from different perspectives. There are
25 newsletters that you know are very biased toward

1 deregulation and there are newsletters that are very
2 biased toward our type of vertically integrated
3 electricity. And it's good to read all of these
4 different opinions and what they're saying and really
5 sorting it out.

6 Then we get emails from, like there's a
7 group that Jim Carr in North Carolina heads up, and
8 they have people who just sift through all of the, I
9 guess, papers that are out there and all of the
10 information from those papers that they think we may
11 be interested in that relate to electricity, we'll get
12 --

13 CHAIRMAN ALEXANDER: The news service
14 or --

15 MS. FLEMING: Yeah. Well, it's not really
16 a -- I mean, they actually are cutting -- they're
17 actually doing the editing, a person, and doing it.
18 And then we do have a news service, like Green Wire,
19 that has the latest every day of what's happening in
20 Washington pertaining. Well, they have a lot of
21 different areas, but pertaining to utilities for us.
22 So that's the majority of the emails that I get.

23 Now, the other, I do get emails, like
24 working on that PUHCA repeal task force. During that
25 period of time, you know, regulators from all over the

1 country were shooting in ideas before we would have
2 our conference calls, and so we would get all these
3 different perspectives. Like we ended up assigning
4 certain people to take certain issues and they would
5 send out. And then other regulators would have a
6 different perspective on theirs. So it was a lot of
7 back and forth like that. So that's the kind of
8 emails we get.

9 Now, customer complaints, I think -- you
10 know, I think the Public Service Commission has done a
11 great job with putting that firewall up. The email
12 address that is on our website does not come directly
13 to us, it comes to our assistants. And our assistants
14 read those emails. If it's something that we can see,
15 then they will send it to us. If not, they will
16 direct it where it needs to go and letters are sent to
17 all of the parties as to why I could not address it
18 directly. So I think, you know, we've had to work on
19 it a bit, but I think it's getting there. I think
20 it's really being refined to a very good system now.

21 I think the Public Service, there are a
22 lot of issues that we've been working on, like the
23 docket management system. A lot of issues that I
24 think the Review Committee has actually asked us to
25 take a look at and figure out a way to do it better.

1 CHAIRMAN ALEXANDER: Any other questions?

2 I've got a couple for you. How would you describe
3 your temperament?

4 MS. FLEMING: My temperament?

5 CHAIRMAN ALEXANDER: Yes, ma'am.

6 MS. FLEMING: It's pretty mellow.

7 DR. FLEMING: After all these years, she's
8 pretty mellow.

9 MS. FLEMING: I would say I'm pretty
10 steady, easy going, and approachable. I would
11 certainly hope approachable.

12 CHAIRMAN ALEXANDER: And what would be the
13 greatest strength in this next term of office, if
14 elected, that you would be bringing to the commission?

15 MS. FLEMING: Well, I think the fact that
16 I've had these two years of experience, going through
17 the restructuring and reform has really given me kind
18 of a, from the roots up, being part of something that
19 I think has really developed into something that is
20 working very well. And I think it's very -- I think
21 it's good at this point to continue that.

22 I would like to have the opportunity to
23 build on the knowledge that I've gained over the last
24 two years and really move forward with that. But the
25 greatest strength, I'm trying to think -- I think the

1 greatest strength I have is the ability to analyze the
2 issues and really think of trying to think outside of
3 the box, so to speak, of how to put it together in a
4 way that will achieve the results that benefit the
5 company, the ratepayer, and the stability of our
6 economic development, as well.

7 CHAIRMAN ALEXANDER: Are there any other
8 comments before we dismiss Commissioner Fleming? Let
9 me mention to you here that the subcommittee plans to
10 and will present its report from the candidates to the
11 Full Committee for its review and adoption. A meeting
12 of the Full Committee is tentatively scheduled for May
13 4th, and we anticipate that the Review Committee will
14 issue a report to the General Assembly on or about May
15 8th.

16 Candidates may not seek pledges until 48
17 hours after the Review Committee has issued its
18 official and final report. Candidates will be
19 notified of the time that the report is officially
20 issued. Does that make sense? Do you understand that
21 aspect of it?

22 MS. FLEMING: Yes.

23 CHAIRMAN ALEXANDER: Okay. We thank you,
24 so much, for your time today.

25 MS. FLEMING: Thank you.

1 1:10 p.m.

2 CHAIRMAN ALEXANDER: Good afternoon.

3 Thank you for making yourself available for the
4 Screening Committee, and our court reporter will swear
5 you in for your testimony.

6 MIGNON L. CLYBURN, having been duly
7 sworn, testified as follows:

8 CHAIRMAN ALEXANDER: Is there any brief
9 opening statement that you'd like to make before we
10 begin questioning?

11 MS. CLYBURN: I just simply would like to
12 say, I appreciate the opportunity that you're giving
13 me to come before you and to represent the Sixth
14 Congressional District.

15 As you know, I've done so for eight years,
16 with pride and, hopefully, most people consider or
17 would say with some distinction. And I look forward
18 to -- I'm a better question and answer person most

19 days -- and so I look forward to more exchange to you.
20 But I want you to know that the person you see before
21 you is an individual who is proud to serve this state.
22 And, again, I appreciate the opportunity.

23 CHAIRMAN ALEXANDER: And Ms. Parrish will
24 be doing the questioning, so I'll turn it over to you
25 at this time.

1 MS. PARRISH: Thank you, Mr. Chairman.

2 EXAMINATION

3 BY MS. PARRISH:

4 Q. Ms. Clyburn, I would like to indicate for
5 the record that your driver's license indicates you
6 live at 16 Darlington Avenue, Charleston, South
7 Carolina, 29403; is that correct?

8 A. That's my primary address, yes.

9 Q. I'd like to indicate for the record that
10 your voter registration certificate indicates you're
11 currently a registered elector in Charleston County?

12 A. I am, correct.

13 Q. You presently serve on the Public Service
14 Commission representing the Sixth District; is that
15 correct?

16 A. Yes.

17 Q. Could you briefly describe your
18 educational background for us?

19 A. I am a product of the public schools in
20 South Carolina, sort of a bifurcated life. I spent my
21 early years in Charleston, South Carolina and spent, I
22 guess, the more developmental years, depending on how
23 you look at developmental, from fifth grade on up in
24 the Midlands.

25 I graduated from W.J. Keenan High School

1 in 1980 and graduated from the University of South
2 Carolina in 1984 with a degree in Banking and Finance
3 and Economics in the School of Business.

4 Q. Since you were elected to the PSC, could
5 you briefly describe any training, certifications or
6 activities related to your employment as a Public
7 Service commissioner?

8 A. In terms of certifications and/or
9 training, I've attended several utility schools, the
10 first of which, when I first got elected, later that
11 fall, I attended a one-on-one tutorial with the
12 National Regulatory Research Institute, which you
13 might see as NRRI, which is the research arm of NARUC,
14 the National Association of Regulatory Utility
15 Commissioners. I had a two-day tutorial which kind
16 of, they start where you are. They kind of give you
17 an overview of the historical significance of all the
18 things that we're dealing with. So that's the first
19 thing I did.

20 About a year later, that summer, I
21 attended the two-week training session at the
22 University of Michigan at the -- okay, it is escaping
23 me now. But at the University of Michigan, we call it
24 Camp NARUC, and I spent two weeks there. It's more of
25 a classroom, traditional college setup; lecture series

1 and bringing in people from all over the country.

2 There's an international component, but
3 it's under -- that they have an affiliation with
4 NARUC, but, again, it's under the University of
5 Michigan, so -- the Institute of Public Utilities. We
6 deal with so many acronyms and, sometimes, it's hard
7 for me to keep them all together in terms of telling
8 you exactly. But it's their Institute of Public
9 Utilities at Michigan State.

10 So in terms of formal "certifications",
11 those are the two that come to mind. Of course, more
12 informally, we've got regional conferences and other
13 types of ancillary activities that we may take part
14 in, depending on the expense and/or time that we have
15 that I've attended. But they wouldn't have a formal,
16 you know, something that I could present to you, that
17 type of certification. But that, of course, goes into
18 the experience side of it.

19 Q. Thank you, Ms. Clyburn. We reviewed your
20 SLED report and found no criminal convictions that
21 were of any concern. We've also reviewed your credit
22 report and didn't find anything of concern.

23 MS. PARRISH: Mr. Chairman, I'd ask at
24 this time to enter Ms. Clyburn's PDQ summary as part
25 of the record.

1 CHAIRMAN ALEXANDER: Without objection and
2 so ordered.

3 BY MS. PARRISH:

4 Q. Just some general questions for you about
5 the commission. Generally, tell me about how you
6 prepare for a hearing before the commission.

7 A. As a rule, we are presented during a
8 normal case with pre-filed, what we call pre-filed
9 testimony, which we call -- that's what I call my
10 homework; the background of the case, the testimony of
11 the witnesses and/or the parties. Sometimes, you've
12 got some things that you might need to look up, and so
13 I might use some resources that are at my disposal
14 that would give me a bit of a background on some of
15 the cases we've got.

16 In some cases where they're -- most of
17 time, we're dealing with companies that we have a
18 history with. So we've got a very good, now, docket
19 management system that I can go back and refer to
20 different items that might be -- that I might come
21 across in the reading. But sometimes, you don't have
22 all of the background there.

23 So in terms of my preparation for a
24 particular case, we usually have a robust pre-filed
25 testimony presentation. But, again, we've got

1 historical references at our disposal and I use those,
2 you know, if I don't have a comfort level with the
3 particular docket case that's before me.

4 Q. Does your preparation vary on the type of
5 case? For instance, if you had a telecommunications
6 case versus an electricity rate case or a water case?

7 A. Of course. And a lot of us -- say, like a
8 water case, which increasingly, they're probably our
9 most emotional cases, you have got NARUC, the
10 committee information that we rely heavily on. And so
11 that is a pretty thick document that, of course, you
12 need to peruse to get yourself acquainted with the
13 why's of how we do certain things, you know, why we
14 use historical test year or what have you.

15 On telephony, the sky is the limit in a
16 lot of ways because, you know, there are a lot of
17 issues that have changed over the years because of
18 convergence and consolidation. So that can be very
19 much a challenge, you know, again, due to the nuances,
20 due to the federal as well as state changes that have
21 taken place, you know, some more so from a
22 deregulatory standpoint. The same is true on the
23 electric side, because you've got, you know, with the
24 Energy Policy Act they've just passed in what, 2005,
25 you've got a whole host of, I guess, new rules that we

1 need to follow.

2 So, yes, it really very much depends on
3 the case and the very foundation of which, you know,
4 would lead you to either one source or another, be it
5 on a federal level. Because, again, there's no
6 disconnect between federal and state as we deal with
7 most of these entities, and so you're reliant on those
8 host of resources from the different tentacles to get
9 you prepared for the different types of cases and/or
10 documents.

11 Q. What about sources within the commission?

12 A. We do.

13 Q. I believe you have technical advisors to
14 rely on that information?

15 A. We do have people who have institutional
16 knowledge that, of course, we rely heavily. We have a
17 resource library at our disposal. We subscribe to
18 various journals that, again, we have at our disposal.

19 And so, yes. I didn't mean to leave out
20 the people. We rely heavily on them. And, again,
21 because -- I hate to put it this way, but they know
22 where all the bones are buried. And so, yes, we rely
23 very heavily on them to help from the historic
24 standpoint.

25 But, again, you have to balance that with

1 your own research to come to your own conclusions. So
2 it's a balancing act from that perspective, also.

3 Q. Because you have been on the commission
4 for eight years, walk me through a typical day at the
5 commission.

6 A. It varies. When I walk in the door, I go
7 straight to the computer, probably like everybody else
8 in here, to get a feel for what's happened during the
9 course of the night, which can change internally as
10 well as externally. Again, because there is a shared
11 relationship on the federal side, there are a lot of
12 things that come through either NARUC or through some
13 of our other sources that trickle down, so to speak,
14 that have a bearing on how we conduct ourselves.

15 So, a lot of times, I'll go straight to
16 the computer and see what -- you know, I'm on several
17 list serves -- to see what's going on there. And that
18 might prompt conversation with one of the technical
19 advisors you have.

20 Again, depending on the day of the week,
21 Tuesdays, Wednesdays and Thursdays are usually our
22 standard meeting days, meaning where hearings are
23 traditionally scheduled. So there may be some later
24 filed testimony that did not come when -- you know, if
25 I went home on Thursday night or Friday, that came on

1 Monday morning, that I might have to catch up with.
2 And so if there are hearings or what have you. And
3 that traditionally happens, because, again, you've got
4 these several windows or somebody might file something
5 late.

6 And so Monday is usually a sort of
7 catch-up day for me to prepare for Tuesdays, what we
8 call our commission meeting or the administrative side
9 of it. And those are pretty standard in terms of
10 tariff approvals and whatever else that we might have
11 made a -- say, we had a hearing on something. We will
12 make the final decision on that particular item to put
13 some finality from, at least from our perspective, to
14 the docket on that day.

15 So everything every week is dependent on
16 the last. It's a building block, it's a continuum.
17 And so while the days may be different in terms of the
18 subject matter, usually the template is the same in
19 terms of, you know, how you prepare.

20 Most of it is information dissemination
21 and intake for me, in terms of a lot of reading, quite
22 a bit of conversation as it relates to whatever is
23 coming before us. So there's a lot of talking and a
24 lot of reading that takes place. Again, that's a
25 building block usually for the next week.

1 Q. Does your routine vary from your Columbia
2 office to your Charleston office as far as your
3 receiving information?

4 A. When you say does it vary, most of the
5 information is electronically accessed, if that's what
6 you mean. So I do have a tablet and I can go and do
7 go on line. I still use dial-up, I'm ashamed to say.
8 But I do go online and access that.

9 So I never go more than -- unless I am
10 sick, which I usually don't get sick -- I never go
11 more than 30 hours without looking at what's going on,
12 you know, even on a weekend, just trying to figure out
13 -- because something might have happened Friday.
14 Especially on a national level, really more so on a
15 state level.

16 So, yeah, everything is accessible. Our
17 docket management system has afforded us the ability
18 to request from the parties that things be filed
19 electronically. And we've got a scanning mechanism
20 now, that if things aren't -- some of the smaller
21 companies don't have the ability to do that, so they
22 can scan that in. So we do have access. I do have
23 access to most of the items.

24 More than 90 percent of the things that I
25 might have a hard copy of, I can get ahold to

1 electronically. So it's more convenient -- it helps
2 me from a time preparation standpoint so I don't have
3 to get there at five o'clock in the morning and try to
4 get prepared. I'm usually ready, for the most part,
5 when I walk in on Monday or Tuesday.

6 Q. Would you walk me through the
7 decision-making process at the commission? After the
8 hearing has concluded, you've received the testimony,
9 tell me a little bit about how you make your
10 decision.

11 A. And I guess that would vary from person to
12 person, and I can only speak for me. I would have
13 read the testimony, whatever I have before me before
14 the hearing. I know we're classified as a jurist, but
15 I don't act like a jurist in terms of, I know some
16 jurists go cold and listen to it and then read. I'm
17 not comfortable that way. I do what I call my
18 homework first. I listen to the testimony. If there
19 are any questions I have to ask of the applicant or,
20 later on, of the advisors, I ask that. Sort of an
21 internal deliberation and then -- this sounds real
22 simple, but it varies in terms of the complexity of
23 the case.

24 And then, at that point, I do my internal
25 weighing and that's how I come to a decision. I mean,

1 it's not as eloquent. It seemed more mysterious
2 before I said it, but that's basically my process. I
3 mean, I'm more of a homework-oriented type and I
4 prefer quantifiable, tangible data, and that is how I
5 derive -- and if there's something I don't understand,
6 which is more often than I would care to admit
7 sometimes, that, you know, I'll research it or ask
8 within the parameters of, you know, what can be
9 included or what can be considered during the
10 deliberation process. I wish I had a more glamorous
11 answer, but that's --

12 Q. Well, let's assume that it was a pretty
13 complex case, for the sake of argument, a rate case.

14 A. Yes.

15 Q. It was a pretty complex case.

16 A. It can be.

17 Q. Assuming you received lots of information,
18 you read that information. After you've heard the
19 testimony, do you talk to your other commissioners?

20 Do you talk to your technical staff? Walk me through
21 a little bit about, once you've read all of the
22 information and you've had access to the information.

23 A. I'm probably a little more introverted
24 from that standpoint than -- I guess it's to anybody
25 else's conclusion, whether or not that's good or bad.

1 But if I have a question, I usually lean on, you know,
2 some persons who might have what I consider more
3 institutional knowledge.

4 So if I'm conversant, it's usually with a
5 technical advisor. If it's a shared jurisdictional
6 type thing, especially on the telephone side,
7 essentially, you know, if it's a multi-state type of
8 thing, I may or may not talk to somebody outside of my
9 state to ask what their experiences are or what
10 precedents have been set.

11 Because, oftentimes, these people have
12 introduced dockets outside of the confines of the
13 Palmetto State and they are generally part of the
14 case. So if it's something that has been cited and it
15 says Tennessee such and such, I might call my
16 counterpart in Tennessee and say, you know, can you
17 share with me or can you talk to me about your
18 reasoning behind this.

19 Especially if it's something that is not
20 as clear. Because there are a lot of shades of gray.
21 I can't sit here and pretend that everything before us
22 is clear cut, because you oftentimes have two persons
23 before you on either side that have very strong
24 arguments. And if it gets a little bit too murky for
25 me, I really attempt to look at why other states or

1 what other states have concluded and tried to ask my
2 fellow commissioners the reason behind it.

3 Oftentimes, I might not be in line with
4 them, but I really would like to know, well, how did
5 you come to that conclusion. Because there might be a
6 perspective or they might have a level of experience
7 that I don't share.

8 Q. What about asking parties involved in the
9 proceedings?

10 A. If you were to do a little, some checking,
11 and I'm sure you have, on me, I'm probably -- I'm not
12 rude, but I'm probably the least communicative one.
13 And it's not casting any type of negative. Even
14 before the change, I've always been told that I was
15 one of the ones that you didn't know exactly what they
16 were thinking, or what have you. And, again, I'm not
17 trying to cast any type of light on anybody else.

18 I usually play things close to my vest.
19 Internally, I brag that I was compliant with most
20 things in there before they passed, because I've got
21 my own set of -- I've got my own internal compass and
22 my own set of standards that I've always abided by.

23 Q. So you understand the prohibition against
24 ex parte communications?

25 A. Oh, yeah. And practice it beforehand.

1 Q. Is there any time where it would be
2 acceptable for you to talk to another party or the
3 commissioners as a whole?

4 A. From my understanding, and I've always
5 practiced this, again, even before the change, if I
6 have a question or a concern, everybody has to be
7 there. It has to be -- you know, every party that is
8 a part of this case has to be privy to the same type
9 of information. So if I go out, and when Elliott used
10 to be here, if I've got some type of thing, all of
11 them would hear what I say. And so I'm not going to
12 give anybody the perception of either an unfair
13 advantage or me liking one person any more than the
14 other. I've never practiced that type of -- that's
15 not been a part of my commissionership.

16 Q. Let's talk about for a second a principle
17 of retroactive rate-making. Are you familiar with
18 that term?

19 A. Retroactive rate-making, as the companies
20 will point out to you, especially if you attempt to do
21 it, is, say, you're at this point in time and you
22 might have a discomfort about where you are in terms
23 of, say, either a tariff or what have you, that you
24 would -- retro, of course, means going back -- make a
25 decision, bring a decision forward based on -- let me

1 see. I'm not explaining this. Basing your decision,
2 or changing a present standing based on, say, new
3 material or a new interpretation of a material.

4 Say, if you say the price you could charge
5 per kilowatt hours is .07 cents, you can't just
6 arbitrarily change that based on some new material
7 without going through a process, a deliberative
8 process. I can't just come here and say, okay, I've
9 changed my mind, the variables have changed, or what
10 have you, without going through a process that is in
11 line or in keeping with protocol as established. I
12 mean, I can't just arbitrarily just say, I'm going to
13 go back to 1993 rates because I feel like it.

14 You've got a lot of states that
15 commissioners have been sued for changing their minds
16 in the middle of the road without a process or without
17 being called, or a request for a hearing or what have
18 you. And I'm sorry to kind of go through it like
19 that. But I can't just say, I've changed my mind, I'm
20 going to, you know, change the rate based on thus and
21 thus without a process that has been noticed and that
22 is based on material that is in the present case.

23 Q. Assuming that, today, you received a case.
24 It went through the proper notice, it was in the
25 proper process. Could the commission reduce the rate

1 that the utility is charging? Would that be within
2 the purview of --

3 A. Say, if we were to go through a -- say, if
4 there were to be some type of filing or some type of,
5 you know -- whatever brings us to a hearing or a case
6 or a docket before the commission, if you're asking if
7 we could charge a different rate, it has happened.
8 But it's based on the case before us. I can't go back
9 to jump start and pick another rate that doesn't have
10 anything to do with the record that is set before me.

11 Every decision that we make in terms of
12 the docket has to be quantified within the confines of
13 that docket. I can't just say, okay, we did that back
14 then. Are we going to bring this forward or this type
15 of decision. It has to be flushed out, so to speak,
16 within the confines of whatever is presented by the
17 parties and that particular docket. I can't pull it
18 out of the air.

19 Q. Assuming that you did that, assuming that
20 you reduced the rate, could you give a refund -- you
21 being the commissioner, as a whole -- could you refund
22 that money to the customer, that they were
23 "overcharged"?

24 A. There is a process, if I recall, because I
25 think I recall getting something not so long ago. It

1 could come in various forms, now. Lately, in terms of
2 any types of changes, have gone through basically a
3 reduction process. We've got the flexibility to do a
4 whole host of things. And, yes, we could, if my
5 recall is correct, we could order a refund. And I
6 remember getting one with interest quite a few years
7 ago before I got on the commission. I think that was
8 SCE&G.

9 But, anyway, as of late, we've just made
10 adjustments in terms of the rates going forward. But,
11 yeah, if you're saying we've got -- if you ask me if
12 we have the ability to do so, a very long answer,
13 yes.

14 Q. Switching gears a little bit, let's talk
15 about the universal service fund and how --

16 A. The State universal service --

17 Q. The State universal service fund. Tell me
18 a little bit about your understanding of the State
19 universal service fund.

20 A. The State universal service fund, if my
21 recall is correct, grew out of the Interim LEC fund.
22 And the fund, in and of itself, is a mechanism to
23 drive, say, access charges or other charges close to
24 cost and making things "revenue neutral". And so in
25 terms of our universal service fund, the way it's set

1 up, BellSouth was the entity or the company that
2 basically set the standard. The template for the
3 rates that are charged in this state, so to speak, of
4 the cost of certain items. And other companies,
5 again, whatever type of services that they have or
6 that they provide, again, things are -- there's not
7 supposed to be any type of -- we're trying to move
8 away from one part of a service supporting another.

9 And so the State universal stuff, again,
10 is a mechanism -- I'm being repetitive -- of moving
11 certain offerings closer to cost and that fund, a
12 certain company can request monies from that to make
13 whatever changes, whatever decreases they have, to
14 make up for the shortfall, that they're trying to get
15 that particular service to be revenue neutral.

16 So that's my basic understanding as to the
17 why of universal service. I mean, universal service,
18 in and of itself, wholistically is an entity or a fund
19 or a concept that was founded to ensure affordable
20 services to as many people who want phone service as
21 possible. As close to parity as possible. You know,
22 someone living in Ballentine, or wherever, should not
23 have to pay an extraordinary amount of money to have
24 -- whatever is defined as basic phone service, because
25 that changes, too, at the time -- they should not be

1 penalized because they live in a "high cost" area.

2 Just as someone in Columbia should not have an unfair
3 advantage because of living in a more dense area.

4 So that fund is a sort of a revenue
5 equalizer to make sure that certain types of services
6 are on par, that are way out of line economically for
7 those persons, regardless of where they live. And,
8 again, that fund is a mechanism used by folks to
9 ensure that type of equilibrium.

10 Q. Thank you. Another switching gears on
11 you, are you familiar with the advisory opinion
12 regarding attending legislative receptions?

13 A. I am.

14 Q. Have you attended any receptions?

15 A. Not since it was made clear.

16 Q. Thank you. And just general, how has the
17 job been? Is it what you expected?

18 A. What's your point in time? I mean, where
19 --

20 Q. Both.

21 A. The last couple of years have been quite
22 different. It's been quite a challenge. I've learned
23 a lot. I'm going to stay positive. You know, there's
24 some changes that have been difficult for me. I'm a
25 people person in a lot of ways and so I miss the

1 consumer side of it. But it is what it is and,
2 overall, I have been -- I've done the best that I
3 could in terms of service. I have done my homework, I
4 have treated the parties and everybody I know as
5 fairly as possible.

6 Have I gotten mad? Maybe a couple of
7 times. You know, I'm human. But all in all, it's
8 been the single most rewarding experience, meaning the
9 past eight years. It was more than what I thought it
10 would be in terms of what I got out of it. Again, the
11 ability to serve the public in a way that, you know,
12 oftentimes, they don't have a good grasp on, that has
13 been interesting.

14 You know, there's still a whole lot of
15 people still ask me after all these years exactly what
16 I do and what the significance is of it, and I'm very
17 proud to tell them that I attempt -- they don't
18 believe me as much, with the gas prices going up, but
19 I attempt each day to balance the needs and concerns
20 of, not only their interest, but of the company's
21 interest.

22 Again, that equilibrium that will aid in
23 our state being a place where people would want to
24 come to live and to do business. So that, you know,
25 when the day might not go as well as I would like, I

1 kind of go back to that and to remember, you know, why
2 I took that oath, why I ran for this job. And,
3 usually, I can fall asleep at night and be okay with
4 it.

5 Q. Would you make recommendations for changes
6 to the system?

7 A. I probably would. I probably would. The
8 Senator may or may not embrace all of them. The truth
9 be told, to get myself in a little bit of trouble,
10 from my perspective, it's a little bit too much
11 isolation. I think, sometimes, there's some
12 information that I would like to get that I don't seem
13 to be able to get.

14 Case in point, one of the things, say, in
15 a rate case, one of the things that we should evaluate
16 is service quality. If I don't have any information
17 based on customer complaints and what have you, I
18 mean, how do I say this person is doing an outstanding
19 job in terms of service quality? Because the customer
20 interaction side of it is, to me, a determinate of
21 "service quality". Not just if your lights are on or
22 if you have a dial tone, but how many complaints there
23 have been or any concerns are being expressed. And if
24 I don't have access to that, I mean, to me, I don't
25 have the complete picture of the company and how it's

1 doing and how it's serving.

2 So that's a side of it that, I can
3 understand us not being the consumer interactor, so to
4 speak. But to not have access to that type of
5 information, to me, is rather crippling. So that's a
6 part of it. If I'm frustrated, that's the one
7 frustration I have.

8 Q. In fairness, I asked about what you would
9 change, what do you like? What have you enjoyed?

10 A. I guess, I like learning. I know that
11 sounds weird, but every day, there's a different
12 nuance, there's a different challenge, there's a
13 different case, a different level of complexity or a
14 different level of simplicity that either makes you
15 chuckle or makes you scratch your head. That part of
16 it, I don't -- while I like some consistency in my
17 life, I really appreciate a job where I don't have to
18 put something on a widget each day. And that's not
19 this job.

20 I don't care what the case is, that docket
21 number means that there's some variable that's
22 different from the last, even if it's the same party.
23 That part of it is interesting. It's usually a
24 challenge. And that's the part of it I like. And I
25 like to think that, you know, even with some of the

1 changes that I'm not as comfortable with, that I am
2 serving my constituents.

3 I am a public servant through and through.
4 If you look, I spent 14 years, I think, I can't count
5 anymore, at a weekly newspaper. It's in my blood. I
6 would like to make lots and lots of money, but that's
7 not my driver. I really like to be that type of
8 public servant conduit or information conduit, and
9 that's where I'm most happy. And so this track has
10 afforded me that, and I like to think that I've been
11 fair at it.

12 Q. Thank you, Ms. Clyburn.

13 MS. PARRISH: No further questions, Mr.
14 Chairman.

15 CHAIRMAN ALEXANDER: Any questions? I've
16 got just a few for you before we finish up. How would
17 you describe your temperament?

18 MS. CLYBURN: My temperament?

19 CHAIRMAN ALEXANDER: Briefly.

20 MS. CLYBURN: Yes. I'd like to think it's
21 even. I can't pretend that, you know, every day, I'm
22 not affected by certain things. But I don't think
23 that I have been unreasonable. I think every, either
24 emotion or interaction has been explainable. I don't
25 think anybody will tell you that I'm unreasonable or

1 one-dimensional or, you know, that I fly off, I don't.

2 So I like to think I have an even temperament, but

3 I've got a bias.

4 CHAIRMAN ALEXANDER: What, as you move

5 forward with this next term of office, if elected,

6 obviously, do you think the one strength that you

7 carry into your future service?

8 MS. CLYBURN: The one strength, you said?

9 CHAIRMAN ALEXANDER: Or strengths, yes.

10 MS. CLYBURN: I'd like to think that I've

11 accumulated some knowledge by way of some of the

12 educational pursuits that I mentioned, by the

13 encounters I've had in terms of hearings, by the

14 relationships that I've developed both at home and

15 nationally. I've been afforded a national position at

16 our trade association and I like to think that that's

17 because, you know, I've proven myself, you know, a

18 person that can work with diverse persons. I like to

19 think all of that in terms of that composite kind of

20 sums it up for me.

21 CHAIRMAN ALEXANDER: Okay. I heard in

22 questioning in your response to a typical day at the

23 commission, a typical at the office, with it being a

24 full-time job now versus what it was prior to, can you

25 give me a typical week for you as to how many hours

1 are in the office, how many is out?

2 MS. CLYBURN: To be honest with you, my
3 life hasn't changed since the laws changed. I always
4 came in on Mondays. It's easier now to take a slower
5 road because of the computer, but I always came in on
6 Mondays and I typically leave on Fridays.

7 In between that, as I said, there's a lot
8 of reading, there are a lot of interactions. You look
9 at what the next few days are going to bring,
10 especially if there's a major hearing coming up. You
11 know, there are a lot of exchanges, both internally
12 and, you know, again, just depending on the case. So
13 my days are filled with preparation.

14 CHAIRMAN ALEXANDER: Does that mean that's
15 eight hours a day in the office or is that one hour a
16 day in the office?

17 MS. CLYBURN: It depends. I went there at
18 eleven o'clock last night, you know. It's easier for
19 me because I don't have a family.

20 CHAIRMAN ALEXANDER: On an average, on a
21 weekly basis, how many hours would you --

22 MS. CLYBURN: On a weekly basis, if you
23 said how long was Mignon seated in the chair at the
24 commission --

25 CHAIRMAN ALEXANDER: Or in your office

1 where you are.

2 MS. CLYBURN: Okay.

3 CHAIRMAN ALEXANDER: Because I'm thinking
4 about, when you say sit in your chair, I'm thinking
5 --

6 MS. CLYBURN: Well, on the confines, okay.
7 Within the office? I guess, on average, five hours at
8 the commission. On average. That could vary.

9 CHAIRMAN ALEXANDER: That's time in your
10 office, too, then?

11 MS. CLYBURN: A day, yeah. Physically at
12 the commission, I guess, no less than -- I mean, five
13 hours on average. And that could be, you know, we've
14 got a meeting. And I say on average because, you
15 know, during our meeting days, if our meeting is at
16 2:30, I'm usually there by 10:00. If we've got a
17 10:00 o'clock hearing, depending on what part of the
18 state I'm in, I'll get there between 9:00 and 10:15,
19 depending on where I am. And I'll traditionally leave
20 at 3:00, 4:00. I've often gotten stuck in the five
21 o'clock traffic.

22 So, I guess, with me, I don't know. It's
23 usually no less than five hours that I am on the site.
24 But in terms of being communicative, I keep my phone
25 on those hours and I keep my tablet with me.

1 CHAIRMAN ALEXANDER: It wouldn't be
2 unusual for you to spend 25 hours a week physically in
3 the commission building, then, on average?

4 MS. CLYBURN: Oh. I can't say on -- it's
5 hard for me to say on average. I guess, I don't even
6 think about when I go in. And I know that might sound
7 evasive, but I don't -- I guess, I don't punch a
8 clock, you know, internally or not. Whatever I need
9 to get done, I'll get done.

10 I have a tendency, sometimes the office
11 can be distracting so I'll go to the public library.
12 And so, you know, I'll do some reading there or some
13 research there. So me not physically being in there
14 doesn't necessarily mean that I'm not doing the work
15 of the commission. But physically in there --

16 CHAIRMAN ALEXANDER: Since it's become a
17 full-time job, has that changed? Well, I guess you've
18 already answered that because you said you've pretty
19 well have not changed that.

20 MS. CLYBURN: Yes.

21 CHAIRMAN ALEXANDER: Any other questions?
22 If not, as we dismiss you, let me just read kind of
23 our schedule, in part. It is the intention of the
24 subcommittee to present its report on the candidates
25 to the Full Committee for its review and adoption, and

1 a meeting of the Full Committee is tentatively
2 scheduled for May 4th. And then we would anticipate
3 that the Review Committee will issue a report to the
4 General Assembly on or about May 8th.

5 After that time, of course, the candidates
6 may not seek pledges until 48 hours after the Review
7 Committee has issued its official report, and
8 candidates will be notified of the time that the
9 report is officially issued. Is that --

10 MS. CLYBURN: Okay. Fair enough. And
11 then election, as far as we know, is still going to be
12 combined with the other candidates on May 24th?

13 CHAIRMAN ALEXANDER: As of this time.
14 Well, we truly appreciate you taking the time and we
15 appreciate your service.

16 MS. CLYBURN: I thank you.

17 (Adjourned at 1:55 p.m.)

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1 CERTIFICATE OF REPORTER

2

3 I, Laura S. DeCillis, Certified Court
4 Reporter and Notary Public for the State of South
5 Carolina at Large, do hereby certify:

6 That the foregoing Committee Meeting was
7 taken before me on the date and at the time and
8 location stated on Page 1 of this transcript; that the
9 foregoing Meeting was recorded stenographically by me
10 and that the transcript as typed is a true, accurate
11 and complete record of said Committee Meeting to the
12 best of my ability.

13 I further certify that I am neither related
14 to nor counsel for any party to the cause pending or
15 interested in the events thereof.

16 Witness my hand, I have hereunto affixed my
17 official seal this 21st day of April, 2006, at
18 Columbia, Richland County, South Carolina.

19

20

21 _____
22 Laura S. DeCillis,
23 Certified Court Reporter
24 State of South Carolina at Large.
25 My Commission expires
August 15, 2015.

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